

COUNCIL MEETING

OCTOBER 24, 2018

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 24, 2018 at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun (*present at 8:33 a.m.*)
Honorable Mason K. Chock (*not present at 3:10 p.m.*)
Honorable Ross Kagawa (*not present at 1:51 p.m.*)
Honorable Arryl Kaneshiro
Honorable Derek S.K. Kawakami (*present at 8:32 a.m.*)
Honorable JoAnn A. Yukimura (*present at 8:31 a.m.*)
Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Kaneshiro moved for approval of the agenda, as circulated, seconded by Councilmember Chock, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

MINUTES of the following meetings of the Council:

September 12, 2018 Council Meeting
September 12, 2018 Public Hearing re: Bill No. 2717 and Bill No. 2718
September 26, 2018 Council Meeting
September 26, 2018 Public Hearing re: Bill No. 2719

Councilmember Kaneshiro moved to approve the Minutes as circulated, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the Minutes as circulated was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

INTERVIEW:

POLICE COMMISSION:

- Dean A. Pigao – Term ending 12/31/2020

Council Chair Rapozo: Mr. Pigao, if you could please come up and I believe this is your first time being interviewed for a Commission. First of all, thank you for agreeing to serve. We will just give you a couple of minutes to tell us a little bit about yourself and why you are interested, and then we will open up for questions.

DEAN A. PIGAO: Thank you. Good morning, Council Chair Rapozo and Members of the Council. My name is Dean Pigao. My background, I am a retired police officer.

(Councilmember Yukimura was noted as present.)

Mr. Pigao: I did twenty-five (25) years with the Kaua'i Police Department. I have been retired for thirteen (13) years now. I have been in the private sector. I am currently a Loss Prevention Manager for a resort. I have done that a few times. I have my own business doing investigations. I did a lot since I retired. I just sent my last daughter off to school about a month ago, not that it has given me a lot more time, but it has given me a little bit of time. I kind of always felt like the County has given me twenty-five (25) years, great years, and I have always wanted to give back in some way, so what better way than to volunteer for the Police Commission? That is why I am here today, and I appreciate your time for this interview.

Council Chair Rapozo: Thank you very much. We all have a copy of our application as well as your resume. Are there any questions for Mr. Pigao? Councilmember Yukimura.

Councilmember Yukimura: Aloha, Dean.

Mr. Pigao: Good morning.

Councilmember Yukimura: Thank you very much for being willing to serve. I think your police and public safety management background is going to be very valuable on the Commission.

(Councilmember Kawakami was noted as present.)

Councilmember Yukimura: One of the purposes of the Police Commission is to be a lay body oversight over a paramilitary organization.

(Councilmember Brun was noted as present.)

Mr. Pigao: Yes.

Councilmember Yukimura: I just wondered whether you would be able to transcend the kind of inherent and it is not bad, bias, to the Police Department. Do you know what I mean?

Mr. Pigao: Yes.

Councilmember Yukimura: And start with a beginner's line—that is a Zen phrase, but when there are complaints from the public, because the Commission has to deal with those, too.

Mr. Pigao: I think being out and retired for thirteen (13) years has kind of took me away from that mindset.

Councilmember Yukimura: That is a good point.

Mr. Pigao: The other side to that is as a private investigator, it took me to the other side of the fence, so now you have to look at both sides and be open to the actual complaint. It kind of opened my mind a little bit more as far as being an investigator, and I have been that almost nine (9) years now, having my own business for nine (9) years. It took me away. I am able to take that away. Again, being out for thirteen (13) years, it is going to be a new experience with all of the new—the Department has changed a lot in thirteen (13) years.

Councilmember Yukimura: Yes. That is a very good point that you bring up and I can see that being outside, once again for so many years, would bring you back to the other perspective.

Mr. Pigao: Absolutely.

Councilmember Yukimura: Yes. Well, I have appreciated the work you did as an officer and the work you have done in the private sector. I think you will be a really good fit. Thank you very much.

Mr. Pigao: Thank you.

Council Chair Rapozo: Thank you. Councilmember Chock.

Councilmember Chock: Yes. I do not have any questions. I just wanted to thank you for considering serving again, and you obviously have my support for this. Thank you.

Mr. Pigao: Thank you.

Council Chair Rapozo: Anyone else? Seeing none, thank you very much, Dean. I have known you forever.

Mr. Pigao: Absolutely.

Council Chair Rapozo: I have no doubt that you will serve the Commission well. You obviously have my support. Thank you very much.

Mr. Pigao: Thank you very much.

Council Chair Rapozo: Thank you very much. With that, I am going to take a five (5) minute recess really quickly. I just need to take a short break. Five (5) minute recess.

There being no objections, the meeting recessed at 8:35 a.m.

The meeting reconvened at 9:07 a.m., and proceeded as follows:

Council Chair Rapozo: Can we have the Consent Calendar, please?

CONSENT CALENDAR:

C 2018-226 Communication (10/01/2018) from the First Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims filed against the County of Kaua'i from July 1, 2018 through September 30, 2018.

Councilmember Kaneshiro moved to receive C 2018-226 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-226 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMUNICATIONS:

C 2018-227 Communication (10/03/2018) from the First Deputy County Attorney, requesting authorization to expend additional funds up to \$200,000.00 from the Claims and Judgments account in the litigation of Michael Sheehan Kocher, Sr., et al. vs. Kaua'i Police Department, et al., Civil No. 16-1-0108 (Fifth Circuit Court), and related matters.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: There is a companion Executive Session (ES). Did you just want to move page 2?

Council Chair Rapozo: Yes.

There being no objections, C 2018-228 was taken out of order.

C 2018-228 Communication (10/04/2018) from Council Vice Chair Kagawa, transmitting for Council consideration, a Proposed Draft Bill to amend Section 5A-1.1 of the Kaua'i County Code, as amended, relating to Real Property Tax, by adding the definition of "claim," to prevent the potential reset of real property tax benefits as a result of a death when the surviving relative was also on the title of the property: Councilmember Kagawa moved to receive C 2018-228 for the record.

Councilmember Yukimura: Council Chair Rapozo, Mr. Smith came and asked to speak in the beginning of the meeting because he cannot stay.

Council Chair Rapozo: Okay.

Councilmember Yukimura: To have more business transaction before he speaks...

Council Chair Rapozo: No one told me that he wanted to speak.

Councilmember Yukimura: Well, I think he told staff.

Council Chair Rapozo: Okay, well I was not...

Councilmember Yukimura: I guess he...

Council Chair Rapozo: What is he speaking on?

Councilmember Yukimura: It is on the Bill.

Council Chair Rapozo: Well, I apologize. No one informed me, but with that, I will suspend the rules. Mr. Smith.

Councilmember Kagawa: Wait, can we deal with this item, at least the motion?

Council Chair Rapozo: Okay.

Councilmember Kagawa: I moved to receive, right?

Councilmember Brun seconded the motion to receive C 2018-228 for the record.

Councilmember Kagawa: Alright. We will talk about it later.

Council Chair Rapozo: The Bill will be coming up later, so let us just go ahead. The motion is to receive. All in favor, say "aye."

Councilmember Kagawa: No, hang on. If I can request that we discuss it now because we have Ken and Finance here. I want to make sure that we get them back to work. It is only first reading.

Council Chair Rapozo: Okay. Well, I do want to take the testimony of the public that has to leave. We will accommodate the public. With that, I will suspend the rules.

There being no objections, C 2018-234 was taken out of order.

C 2018-234 Communication (10/16/2018) from Councilmember Yukimura and Council Chair Rapozo, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 7A, Kaua'i County Code 1987, As Amended, Relating To Affordable Housing Preservation, to preserve the affordability of housing developed with public (taxpayer) moneys or required by State or County zoning and planning laws: Councilmember Kaneshiro moved to receive C 2018-234 for the record, seconded by Councilmember Brun.

Council Chair Rapozo: Okay. With that, I will suspend the rules. Mr. Smith.

There being no objections, the rules were suspended to take public testimony.

GARY SMITH: Good morning Council Chair Rapozo and Councilmembers. I appreciate the opportunity to speak to you on behalf of myself as a private citizen, which is unusual, and to speak upon my knowledge of the affordable housing issue and what I have seen in the past. Where is that box of Kleenex because as I have seen the affordable housing opportunities and inventory being squandered over the years, I feel like crying myself? My concern has been for many years, probably over twenty (20) or twenty-five (25) years. Being in an industry where we see real estate transactions, we treat people's foundations for their new homes, we worked on affordable housing projects and self-help housing projects where we treat the foundation for termites when they are being built. We see the hope and the promise of all of these people who have gotten opportunities for affordable housing. We have seen the inventory, I would say. I asked Councilmember Yukimura if there are any statistics about how many houses we have had in inventory over the years and how many we lost, and there are no real numbers that I could lean on, but suffice to say that we are probably at an excess in inventory of five hundred (500) to one thousand (1,000) affordable homes at one period in time. Probably the heyday for it was in the 1980s and 1990s. In this ten (10) year period, we have seen them go to the highest bidder. In the old days, "speculation" was a dirty word and that is because people were making double their money in Kīlauea. A real estate person bought a home for two hundred thousand dollars (\$200,000), turned around the next week, and sold it for four hundred thousand dollars (\$400,000). The person who bought it was not furious. They said, "Oh, he has the right to make a profit." Today, speculation is not that easy because the prices are extremely high. Families that do buy houses in our area, the one (1) common thread that I have seen is that they have mother-in-law suites where they can get rental income to pay the mortgage. Self-help housing in Kīlauea, there were fifteen (15) units there and across the street, there was a County housing with nine (9) units on Kaumuali'i Street. The County housing is unbelievable

because almost every person that owned a house there is still there or has died in that house and a new person has come in.

Council Chair Rapozo: Mr. Smith, I am going to stop you right there. That was your first three (3) minutes. Is there anyone else that needs or wants to testify, but cannot stay? Okay, you can go ahead with your second three (3) minutes.

Mr. Smith: The County across the street is self-help housing. There are only three (3) people left from the original self-help housing that I think was in the late 1980s or early 1990s. In that thirty (30) year period, there are only three (3) people left from that side, whereas on the County housing side, almost everyone is the same except for the ones who passed away. Now, I believe that the County housing has...because you rely on developers to provide the inventory for County housing opportunities. We, as property owners, who have bought in these subdivisions, have subsidized these lots that the County has gotten. I believe strongly in paying it forward as well, so when these houses are sold and they get opportunities to turn a two hundred thousand dollar (\$200,000) investment today in Kīlauea to five hundred thousand dollars (\$500,000) or six hundred thousand dollars (\$600,000), to me that is kind of problematic. I see opportunities where if these lands were leased or held in perpetuity by the County, then when these house become available, they would go to qualified buyers under the affordable guidelines. This inventory would be increased, not decreased, every time a ten (10) year clause kicks in and they become available to any person to buy them. With our new affordable housing projects, in the past, we have relied on developers to do this. Today, there are not many developers coming out, making big projects like as they were like Wai'ale'ale Estates in Kapa'a. Those days are gone, as far as I can see, because the prices are too exorbitantly high. All I ask is that the County look at its inventory and see how can we, as a County, keep an inventory and increase the inventory and not continually lose inventory. So with that, I...

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Is it a clarifying question?

Councilmember Kagawa: Yes. Mike...

Councilmember Yukimura: Gary.

Councilmember Kagawa: Oh, Gary. I hear you about trying to keep it in perpetuity. On the outset, it just seems like a no-brainer, but we have been having affordable housing from Cliffside, 1970s, all the way, 'Ele'ele Nani, Hanamā'ulu, and Halenani. Did we only figure it out now that we should do it in perpetuity? It took us sixty (60) years to say, "Hey, this is the solution."

Mr. Smith: Well...

Councilmember Kagawa: Serious, though.

Mr. Smith: This is why I am here, because I have been saying it for twenty-five (25) years or twenty (20) years, telling Councilmember Yukimura, "We have to do something." I have seen it. It is sad to see these people get self-help housing, they worked on the house, they get divorced, and then all of a sudden they lose the house. Then pretty soon, the clause ends and the house sells for six hundred thousand dollars (\$600,000).

Councilmember Kagawa: I know. I guess my question is though, did we only know the solution now?

Mr. Smith: It is a good question because I do not know why we could...I think we have been lulling ourselves into thinking that we have an inexhaustible supply of development and an inexhaustible supply of new opportunities for affordable housing that would come along and provide more and more and more. If that was the case, then the ten (10) year clause would not matter because we are always supplying more, but the fact is that we are not supplying more and the demand is getting greater than what we anticipated. So, with our anticipation of greater supply and our lack of anticipation of the greater need, we are here twenty-five (25) years later, tossing out this idea, which is a no-brainer, basically. We should have thought...

Council Chair Rapozo: I do not...

Councilmember Kagawa: I think sometimes though, if it took us fifty (50) years and we only figured it out now, it might not be a no-brainer. There is a reason why leaving it off perpetuity is a no-brainer.

Council Chair Rapozo: Okay. We are going to move on here.
Councilmember Yukimura.

Councilmember Yukimura: Thank you, Gary, for being here. I just want to be clear, do you support the Bill?

Mr. Smith: Oh, yes.

Councilmember Yukimura: Okay. Thank you.

Mr. Smith: With that, I thank you for your time.

Council Chair Rapozo: Thank you. I apologize, again, for not getting you up earlier.

Mr. Smith: *Mahalo.*

Ms. Fountain-Tanigawa: Council Chair Rapozo, we have...

Councilmember Yukimura: I think we have one (1) more person who wants to testify early.

Council Chair Rapozo: I do not know. No one told me. I guess Councilmember Yukimura knows more about today's meeting than I do. Please come up, Ken.

Councilmember Kagawa: It is her Bill that is why.

Councilmember Yukimura: No. I wanted a procedure of rules...

Council Chair Rapozo: No, I want to...

Councilmember Yukimura: ...but that was denied.

Council Chair Rapozo: Mr. Rainforth. I did ask Mr. Rainforth to come up. I saw him in the supermarket the other day. Mr. Rainforth.

KEN RAINFORTH: Thank you for allowing me to speak. First of all, I would like to say that I believe you...

Council Chair Rapozo: Please state your name really quickly, Ken.

Mr. Rainforth: Pardon.

Council Chair Rapozo: Can you state your name real quick?

Mr. Rainforth: My name is Ken Rainforth.

Council Chair Rapozo: Thank you.

Mr. Rainforth: I am a retired County worker.

Councilmember Yukimura: Housing Director.

Mr. Rainforth: I am here today to encourage you to support this Bill. I have a few comments that I would like to give after hearing Mr. Smith speak and your concerns, Councilmember Kagawa. The formula that was used to develop affordable housing before is no longer relevant. Before, hundreds if not a few thousand affordable units were built for-sale and sold at no cost to the taxpayer or the developer. The amount of money that it cost to build the unit is what it was sold for and it was affordable. That is no longer the case, as you know. What is it? Hanamā'ulu triangle is selling affordable units for four hundred fifty thousand dollars (\$450,000). Is that correct? I think all of you would agree that does not seem affordable to Kaua'i's people.

Councilmember Yukimura: Most people.

Mr. Rainforth: Now to make affordable housing whether it is for-sale housing or rental housing, it has to be subsidized. Years ago when I was in the Housing Agency, we said, "We cannot be giving that subsidy away to any of our citizens. It is not fair to the citizens that do not get it." It is not supposed to be like

the lottery, so there needs to be some way to capture that subsidy back. Several different attempts were made to try to recognize that. A shared appreciation program makes sense one way, but no one really liked it. Right now, the County's leasehold program seems to address all those issues about not giving the money away, but giving residents homeownership opportunities. I would like to also say that when I was reviewing the Bill that I pulled off the internet, there were some errors, I thought, from the discussions that I had with Councilmember Yukimura in helping her draft the language for the Bill. The Bill you have defines long-term affordable housing on the first page and then on the third page, you get to the "guts" of the Bill actually, and it use the term...

Council Chair Rapozo: Ken, you can just continue on your second three (3) minutes. I do not believe there is anyone else that has to leave. Go ahead.

Mr. Rainforth: On page 3, there is the "guts" of it, which is describing permanently affordable housing, but long-term affordable housing should be the term used because the definition needs to match the purpose. I believe Aida has made an amendment that Councilmember Yukimura is going to introduce when you get to the Bill later today to correct that.

Council Chair Rapozo: Thank you, Ken. Councilmember Kagawa.

Councilmember Kagawa: Ken, you said I should know that housing has changed and that this idea of perpetuity is now relevant in the new age of affordable housing because things have changed. Did we only know last week or whenever that we decided to put this Bill, is a good idea? Did we not know this at least five (5) years ago, that perhaps going to perpetuity would be a better idea? What I am saying is, it just seems kind of funny that she has about one (1) more month here and now we decide, "Oh, before I leave, I am going to leave you with an affordable housing bill because I am going to be gone for two (2) years." Do you know what I mean? It is like if this idea was so great, we should have done it way back when we identified when this idea was great, that we need to keep it in perpetuity. I want to know from the Housing side, when did we know or we should have come up with this Bill, because affordable housing is a big problem and if this is the key ingredient, why did we wait until now, one (1) month before she vacates?

Council Chair Rapozo: That question can be for Housing, I guess, not so much for Ken. If you have a question for Ken as far as his testimony...we will...

Councilmember Kagawa: No, he made it seem like it is a no-brainer that I should know that things have changed. Well, it did not just change today or last week.

Council Chair Rapozo: I understand.

Councilmember Kagawa: This thing has changed a long time ago.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, may I ask a question?
Ken, you were part...

Mr. Rainforth: Can I address Councilmember Kagawa's concern?

Councilmember Yukimura: Go ahead.

Mr. Rainforth: We, the Housing Agency, understood that government should not be giving away subsidies to people. It took a while, but we developed a leasehold program and it took care of that issue. That is fifteen (15) years old, at least. Before that, we were kind of in the midst of a transition understanding that it was not working. As far as affordable housing required by developers, that was a different issue. Developers felt that long-term or permanent affordability would make it impossible for them to sell the units because no one would want to buy one. I had empathy for that feeling because it proved to be true time and again, that the more restrictions on it, the fewer residents would be interested. But also in that time, it did not take one hundred or more thousand dollars to subsidize a unit to make it affordable, so it has changed for them as well, and the Hanamā'ulu triangle should prove that to you.

Councilmember Kagawa: The Hanamā'ulu triangle was ready to go twenty (20) years ago. Why we waited so long is the problem.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, this is a discussion, right?

Mr. Rainforth: You have to ask Schuler.

Council Chair Rapozo: I do not want a debate. This is a First Reading Bill. This is the Communication. Councilmember Yukimura.

Councilmember Yukimura: Ken, you were part of my Affordable Housing Advisory Committee, right?

Mr. Rainforth: Correct.

Councilmember Yukimura: That started maybe four (4) years ago, and was this provision not in the Bill that we were working on?

Mr. Rainforth: It was a key element for changing the Affordable Housing Ordinance.

Councilmember Yukimura: We have been working on this idea at least four (4) or five (5) years.

Mr. Rainforth: Yes.

Councilmember Yukimura: But this Council disbanded my Committee and it is true, so we were no longer in existence. But that is why I have taken some provisions from the work that we did to introduce, because they are key provisions for solving the affordable housing problem on this island.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Council Chair Rapozo I just want to interject because I feel like it has kind of been increasing over the past couple of months. We have rules for this Council that determine what it is, and the reason is because we have speakers who come and testify and they feel like they are being questioned in a direction or another. I would just ask that we stick to the rules, keeping our discussion within the Council, let the testifiers testify, and of course, we have every right to disagree or agree with, and move on. Thank you.

Council Chair Rapozo: We will have an opportunity to have the discussion when we get to the Bill. I just want to accommodate the public in the morning that cannot stay. Are there any more questions of Mr. Rainforth? If not, thank you very much.

Mr. Rainforth: Thank you, Council Chair Rapozo and Councilmembers.

Council Chair Rapozo: Thank you. With that, I will call the meeting back to order.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: We are on C 2018-234 right now. Is there anyone else who wanted to testify on the affordable housing bill?

Ms. Fountain-Tanigawa: Yes. We have one (1) registered speaker on this transmittal.

Council Chair Rapozo: On what?

Ms. Fountain-Tanigawa: C 2018-234.

Council Chair Rapozo: Okay. Let us take care of that.

Ms. Fountain-Tanigawa: Anne Punohu.

Council Chair Rapozo: Anne, are you going to be here? Alright. Let us go back to C 2018-228. Sorry. I just wanted to make that for the people who could not stay.

The motion to receive C 2018-234 for the record was then put, and unanimously carried.

Council Chair Rapozo: Let us go back to C 2018-228.

Councilmember Kagawa: I have a question for Ken.

Council Chair Rapozo: Okay.

Councilmember Kagawa: And for Finance.

Council Chair Rapozo: For who?

Councilmember Kagawa: For Finance.

Council Chair Rapozo: Okay.

Council Chair Rapozo: I will suspend the rules and again, we are on C 2018-228.

There being no objections, the rules were suspended.

Councilmember Kagawa: Because I heard that Councilmember Yukimura had some concerns.

Council Chair Rapozo: C 2018-228.

Councilmember Kagawa: I wanted to make sure that we do the—I know it is first reading. The normal process is we do the discussions after public hearing in Committee, but I heard she had some questions. So let us just answer some questions as far as what this Bill is about in a nutshell.

KEN M. SHIMONISHI, Director of Finance: Ken Shimonishi, Director of Finance. The intent of this Bill is to provide a means for a relatively specific situation or a method of where the primary residents has co-owners on title, the owners or the primary owners, I would say, are eligible or have filed for a home exemption and are also receiving the Homestead tax rate and the associated assessment cap. However, in the event that one (1) of the owners pass on and the subsequent owner, who is also living at that residence or who would have qualified for the home exemption, the Homestead tax rate and so on, has the ability to file a claim to retroactively achieve those same benefits as far as the lower tax rate. Again, they would have had to have been on title, residing at the residence, and qualified in their own manner as well during that time period. The typical example would be an elderly parent and an adult child, both are on title, the elderly parent or parents would have had the exemption already on file, and in the event that they pass, currently, the exemption is not passed to the adult child even though they were on the title of the property. So, this allows the child to file for a home exemption going back to at least three (3) years.

Council Chair Rapozo: I am confused a little bit. How would it be three (3) years? If my parent passed away and I am living, are you saying that they are living in the same house?

Mr. Shimonishi: Correct, they would have to be.

Council Chair Rapozo: Would it take me three (3) years to find out? I would think you would know on the next tax bill, right?

Mr. Shimonishi: Not necessarily, and this is just to allow for some ability to go back when we discover that the parent has passed on and maybe Brad can give an example of what we have seen.

Council Chair Rapozo: So the requirement is not that that child would have to be living in the house? Could they be on title but living in the mainland?

Mr. Shimonishi: No, they have to be living there as their primary residence as well.

Council Chair Rapozo: Correct.

Mr. Shimonishi: All of those three (3) conditions need to be met.

Council Chair Rapozo: Okay. I am still a little confused.
Councilmember Kagawa.

Councilmember Kagawa: This Bill came from me. I had a teacher that teaches with me at Kapa'a High School where the mom passed away, her father is still alive, and they both live there. They found out through their bank statement, because the bank pays their property taxes, and they saw the larger amount. So she questioned me and I said, "Oh, perhaps they are taking the whole amount out in one (1) payment," and we found out that actually, their rate had gone up from a three dollar (\$3) rate to a six dollar (\$6) rate. Basically, they are paying double the taxes that they normally did and it was because of that, I called the Office of the Mayor and Wally, and Wally has worked with Ken and Finance. This is the solution that they came up with. I just asked for retroactivity because there may be some cases that people have accepted that, "Well, it is in the rules that if the person that died is not on, then we just got to pay." Some local people actually accept paying those amounts without fighting tooth and nail like I would. But this way, it allows for some flexibility to go back and if that has happened, which we find out that it is, I guess, it is common that sometimes it just happens where the person that has their name on the exemption is the one that passes away. It actually requires the family to go and file a new exemption for it because the person is deceased. I just want to thank Finance for coming up with a solution that really, the status of the house has not changed. It is still a primary homestead residence and Finance has just found the mechanism to correct this particular type of problem. Who knows, there may be other problems, but we are not trying to fix all of the problems. We are just trying to fix a problem that we know has occurred and this is the remedy that we have. I do not know if you have anything to add to that.

BARD CONE, Real Property Appraiser I: Brad Cone, Real Property Tax Manager. The Bill is somewhat narrowly written, but it was received positively by our exemption staff. There are issues that come about where the timing of a passing is such that a new exemption application does not get filed and so there can be a lapse in a year or even multiple years in some occasions, so this rectifies that situation.

Council Chair Rapozo: Well, I can see if we are going to put out a correction because it is. I agree that should not happen. With the initiation of the Bill, the Bill passes, I would say three (3) years to get everyone in the net that may have fallen through, but after that, I think, you should know within a year. When you get your tax bill, you should know. But anyway, we will have that discussion later when we get to the Committee. Councilmember Yukimura.

Councilmember Yukimura: I was asking questions just so that I understood what was being proposed here. As I understand it, there are multiple owners; the one under whom the exemption is, the owner-occupant exemption is filed for, passes away; the remaining occupants are also qualified for the owner-occupant status, but they have not filed a timely request for exemption under their name; and so their remedy would be to file a claim to get that money back because they were entitled to it, right?

Mr. Shimonishi: That is correct.

Councilmember Yukimura: Is that the situation?

Mr. Shimonishi: Yes.

Councilmember Yukimura: If they had timely filed for an exemption, this would not be an issue. But when someone dies and that happened recently to me, although I do not live there, but my brother and my mother do. It just allows for this transition and if there is an inadvertent lapse, then you are allowing a claims process to get that money back, right? Is that what it is?

Mr. Shimonishi: Yes, that is correct.

Councilmember Yukimura: Okay. With that understanding, I fully support this. I think it is a very logical, good thing. Thank you for your assistance. Thank you to Councilmember Kagawa.

Council Chair Rapozo: I have a question. If I am on the title with my wife and we qualify for the homeowner's exemption, if I die and she is still alive, the exemption goes away or she has to refile for an exemption?

Mr. Cone: In the event that your wife is on title, she would be successor and yes, it would pass to her. I think what we are talking about is a more complex issue where others on title, children or other relatives on title, would actually need to physically file an application.

Council Chair Rapozo: What would the difference be if it is my wife or my son?

Mr. Shimonishi: So, I think it is when you...

Council Chair Rapozo: Let me paint the scenario really quickly. Scenario A: my wife and I live together and we have the homeowner exemption because we both live in the house. Scenario B: my son and I live in the same house, he is on the title with me, and we both have exemption. I die, in either scenario, does the surviving person get the exemption automatically?

Mr. Shimonishi: I believe that when you file for the exemption, if your son is not part of the application with you being the claimant, then that exemption cannot be passed on to your son. He would have to file that. So it is part of the process that we modify the application as well to not just have spouse because you could have partners or relatives.

Council Chair Rapozo: Whoever is on the deed and living in the house, right?

Mr. Shimonishi: Again, it is on title and living in the house, qualifies as their primary residence.

Council Chair Rapozo: I understand. I was just trying to figure it out. Maybe our process is flawed that we are not catching the people when they request the—it should not be a guess. If you live in the house and you are on the deed, then your name should be on the exemption. Would you not agree?

Mr. Shimonishi: Well...

Council Chair Rapozo: If one (1) dies, the exempt should not go away.

Mr. Shimonishi: I believe we are working to modify our application as well because again, the older applications were just owner and spouse. I think we are allowing some flexibility in that to try to encompass more of those that are actually eligible.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I guess the way I was thinking of it is you have an elderly person in the house that has a title and maybe your parents or grandparents, you are living with them, they pass away, and then you are not on their title, but you are living in the house and you are going to continue to live in the house. The use of the house does not change. Is that where the situation comes in?

Mr. Shimonishi: No. You would have to be on the title.

Councilmember Kaneshiro: You have to be on the title?

Mr. Shimonishi: It is owner-occupant.

Councilmember Kagawa: Ken and Brad, does Maui, Hawai'i Island, and Honolulu have this owner-occupant exemption or Homestead class as well?

Mr. Shimonishi: I am pretty sure, yes.

Councilmember Kagawa: I am just wondering if we collaborate with them as far as—because I am sure that if we contacted them, they have similar cases where we can figure out how to best fit ours so that we do not have people who are getting the exemption that should not have the exemption, and those that should have the exemption, but because of someone passes away or whatever, that there is a way to remedy the situation like we have done here. I am wondering if you have that kind of collaboration to make sure that we share ideas when they work.

Mr. Shimonishi: We can reach out to those Counties and try to get that. We obviously just had a change in our management here and no offense to Brad or anything, but we are new coming on trying to gain all of this knowledge again. It takes us a little while.

Councilmember Kagawa: That is the focus as well, right, trying to make focus this those who should not get the exemption have ways to get the exemption as well, and that is why it is owner-occupied and you folks stay pretty strict to that?

Mr. Shimonishi: Exactly.

Councilmember Kagawa: Because otherwise, perhaps they could have two (2) places, right?

Mr. Shimonishi: Right.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: Are there any more questions for the Administration? Ask them now because once I release them from this, then you folks can go back and when we get to the Bill, we will just take our Council action. I do not want to keep you here until the Bill.

Councilmember Kagawa: I just want to finish by thanking and welcoming Brad, who has taken Steve's place. Welcome and we will be here at least another month to work with you.

Mr. Cone: Thank you.

Council Chair Rapozo: Thank you very much, gentlemen. Is there anyone in the audience wishing to testify? This is the Communication and we will deal with the Bill later. Seeing none, I will call the meeting back to order.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The motion is to receive. Is there any further discussion?

The motion to receive C 2018-228 for the record was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

C 2018-229 Communication (10/05/2018) from the Emergency Management Administrator, requesting Council approval to receive and expend State funds, in the amount of \$780,000.00, from the United States Department of Homeland Security, via State of Hawai'i Department of Defense, to be used to enhance the capability of State and local units of government to prevent, deter, respond to, and recover from threats and incidents of terrorism, as well as "all hazards" catastrophic preparedness initiatives.

Ms. Fountain-Tanigawa: Council Chair Rapozo, we have one (1) registered speaker.

Council Chair Rapozo: Can I get a motion, please?

Councilmember Yukimura moved to approve C 2018-229, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. Can I have the registered speaker?

Ms. Fountain-Tanigawa: Jill Lowry.

Council Chair Rapozo: Thank you. With that, I will suspend the rules. Jill.

There being no objections, the rules were suspended to take public testimony.

JILL LOWRY: Good morning, Council. Jill Lowry, for the record. I am assuming that at the appropriate time, this will be approved, received, and expended, but I wanted to bring forth a couple of concerns that I have on behalf of our community. It is my understanding that in the State and I am assuming also on Kaua'i, that we have but a fraction of shelters available for our population and any given visitors at the time if we were hit with a hurricane. It is also my understanding that the majority of the State shelters, and again, I do not know what the percentage is for Kaua'i, but they are not really equipped to handle the severity of storms that we are starting to see more and more of. With Hurricane Lane, the messaging from O'ahu was to "shelter in place" and one (1) of my concerns is for our community to understand what that specifically means. Who should be sheltering in place? The little lane I live on, half of the homes that are on this lane, mine included, were built

in the 1940s and are single wall construction. I spoke to my Aunty recently and not only was my home built in the 1940s, but it was torn down wood from a church. so it was reclaimed wood and goodness knows how old that wood was before this particular home was built. I know there is a lot of sentiment about, "Well, my home survived Hurricane 'Iniki and Hurricane Iwa," but the concern that I have is that are a lot of these homes and with this misunderstanding of the viability, potentially and the disaster that could come of it, where is the education so people could understand that the homes that they are in may not survive? Then, I also would like to bring forth a couple of ideas of perhaps some community education about these types of homes and to encourage people to go to the shelter if we are in that predicament. Then also, possibly considering some funding available for homes that were built prior to 1995 to allow families that cannot afford to get roof clips and other things that would create more structurally sound homes. Then lastly, I would just like to say it is also my understanding that it costs about fifteen thousand dollars (\$15,000) to structurally review our shelters that we do have, and that a lot of them are not up to muster. Is it possible to create some funding so that the structures that we have and we are sending people to, are sound? That is all that I have.

Council Chair Rapozo: Thank you very much.

Councilmember Yukimura: I have a question.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Jill.

Ms. Lowry: Yes.

Councilmember Yukimura: Excuse me. Thank you for your testimony. The fifteen thousand dollars (\$15,000) to review shelters, are you saying it costs fifteen thousand dollars (\$15,000)?

Ms. Lowry: It is my understanding in the article that I read some time ago in *Hawai'i Business*, and I believe it was 2016, so I would guess that cost has gone up. But it was stated in that article, and I can give you the link to that article, but that is approximately what it would cost. That is why...

Councilmember Yukimura: To review public shelters?

Ms. Lowry: Correct.

Councilmember Yukimura: Okay. Well, we have our Emergency Management Administrator here we can ask.

Ms. Lowry: Okay.

Council Chair Rapozo: Thank you. Felicia.

FELICIA COWDEN: Felicia Cowden, for the record. I want to support what Jill said and I do support receiving the seven hundred eighty thousand dollars (\$780,000). I just went last week to the Kekaha, Waimea, and Hanapēpē West Side Development Walk Audits and discussions, so her testimony just caused me to want to share with you all that one of the things that I heard very much in Kekaha from two (2) seniors who were born and raised in Kekaha that would like to see a shelter higher up in Kekaha. They felt vulnerable in Kekaha. Then also in Waimea, I heard a similar piece. As you all know, there has been more flooding lately in the Waimea River and those neighborhoods, so there is concern about the levee. I heard that people are a little bit concerned about the levee in Hanapēpē. But Waimea, I definitely heard seniors saying that they felt that it would be wise to have some sort of shelter higher up than it is. I just want that on the record. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else in the audience wishing to testify? If not, Elton, can you come up, please?

ELTON S. USHIO, Emergency Management Administrator: Aloha, Elton Ushio, Emergency Management Administrator.

Council Chair Rapozo: Thank you. I know a lot of the discussion was about shelters for what sounds like natural disasters. I think that is what I heard. We will probably be placing something on the agenda to get a discussion because I want to keep the discussion as it relates to this grant request. I know in your cover letter, you talk about “respond to, recover from threat and incidents of terrorism, as well as ‘all hazards’ catastrophic preparedness initiatives.”

(Councilmember Brun was noted as not present.)

Council Chair Rapozo: If you could just go over—I noticed the first two (2) items, which amount to one hundred thirty thousand dollars (\$130,000), is for communication systems for Police and Fire. Apparently, you folks are going to switch out the mobile satellite equipment in the mobile command post as well as upgrade Kaua‘i Fire Department, so that is self-explanatory. But four hundred fifty thousand dollars (\$450,000) for Radio System Enhancements against cybersecurity threats, can you go over that a little bit?

Mr. Ushio: What that item entails is digital encryption capability to make the system more secure so people cannot go in. Authentication, so unauthorized radios. It would be difficult for people to hack into the system and even the capability to remotely rekey or reprogram. Say an officer’s radio gets stolen and someone intends to monitor, do bad things with that, or access the system, we will be able to remotely reprogram the radio without nullifying the capability.

Council Chair Rapozo: Do we have that capability now?

Mr. Ushio: My understanding is that it has a limited capability to kill.

Council Chair Rapozo: The reason I ask, Elton, is my memory is not as good as it used to be. But it seems like every year we get these grant applications or grant requests, and it is always to upgrade the radio system. It is exorbitant amounts of moneys, so I am just trying to figure it out. I really thought that after the last upgrade, that we had the best security. I thought that we had the best security possible as far as hacking. Does this just make it better? Are we having issues with hacking and attempts?

Mr. Ushio: That, I do not know. I would have to defer to our Telecommunications Officer, who is unfortunately not here today.

Council Chair Rapozo: Okay.

Mr. Ushio: But digital encryption is normally considered as that level of security where we want to get to.

Council Chair Rapozo: And we do not have that right now?

Mr. Ushio: We have done phase upgrades, but this encryption would be for the foreseeable future other than hardening infrastructure, that would be technology-wise, what I would see as reaching where we want to be.

Council Chair Rapozo: What does four hundred fifty thousand dollars (\$450,000) get us? Is it software, upgrades, or equipment?

Mr. Ushio: That again, if you send us correspondence, I will defer to our technological specialist, our Telecommunications Officer. Again, my understanding though, is that it is encryption, hardware, and software upgrades. But I cannot speak definitively on what each item is and what it will do.

Council Chair Rapozo: Okay, I got it. Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. Elton, are we anticipating seeing these costs reoccurring, because when we talk about cybersecurity, those hackers are constantly evolving and utilizing new technology, so we are always behind the 8-ball and trying to chase and modernize our systems and harden them up because the threats always evolve. I think that is one (1) of the things that we, as Councilmembers, need to be cognizant about, whether it is cybersecurity or anything dealing with technology. There is so much money being put into these hackers to hack into these systems to steal information that the amount we are spending is far less than what they are spending. This is all from national conferences that we have attended as far as cybersecurity threats and hacks to the systems. I know at Legislature, we had a confidential report come out that just showed the frequency of these types of attempts just within the Legislature in our own E-mail system, and it was mind-boggling to see the frequency of these hackers. Is this the tone that you are talking on your end of the spectrum that this is something that we are going to be seeing as far as reoccurring expenses because every year, every second these hackers are evolving?

Mr. Ushio: To be honest as far as hardware and software upgrades, there could be recurring costs, but I do not see them being at this level. It is like our phase upgrade of the system. We did so much per year, what we could. It was a combination of funding; County, Federal, and some State funding to get to where we are now. I think with this and our recently upgraded system, we will be pretty good for a while.

Councilmember Kawakami: Sure. One (1) more follow-up question. On the upgrade on the radio system, one (1) of the concerns that came up is that we have interoperability within the County, but then when I talked to Division of Conservation and Resources Enforcement (DOCARE) on the State side, they are having challenges on being on the same wavelength, I guess. One (1) example is there was an occurrence at First Hawaiian Bank. DOCARE is just right across the street and yet, they had no knowledge that occurrence was happening at First Hawaiian Bank. If they had known, they either one, could have at least tried to respond quicker and two, it was a public safety hazard because you had a murder happen right across the street and these officers did not even know there was a threat in the area. Is this going to help resolve that issue?

Mr. Ushio: As far as technology-wise, I think we are at the point where we have an excellent level of interoperability with other on-island partners and off-island partners who come here. We are pre-programmed to be able to communicate with them on these similar systems. I think your concern is more of an operational consideration where, and I hate to second guess, but I am thinking there may not be an established protocol where dispatchers automatically inform State law enforcement of events. It might be just going to local law enforcement. Then, it becomes the decision of local law enforcement or the Incident Commander whether or not they are going to share information or get that out there. So technology-wise, we have the capability, so we should be able to establish a means of communicating with them on their system.

Councilmember Kawakami: So we just have to figure out the operational protocols to get them on the same wavelength?

Mr. Ushio: That would be my understanding.

Councilmember Kawakami: Okay. Thank you.

Council Chair Rapozo: I understand when they did get the new radios and the new frequencies so we could have better interoperability, it is really a policy decision at the Department who they want to put on the net. I think that is the issue because I have heard from other agencies that were once on the network, were removed. So that is something that the Chief and the new Chief or whoever comes in has to make the call. I think it is foolish not to have that ability to go to an all frequency and everyone gets the word, rather than, "Hey, go to Channel F3 or F4 and I will talk to you privately." There should be a channel and I know they have the capability. Again, it is a policy call and that is something that these people have to consider because it makes no sense. Councilmember Yukimura.

Councilmember Yukimura: Thank you, Elton. I was just trying to understand the chart here and I do not know if we want to put it on the overhead. You have it broken down into four (4) groups; Total 1, Total 3, Total 4, and Total 8. I just wanted to know what that meant.

Mr. Ushio: When the decisions are made as far as areas of funding...

Councilmember Yukimura: Are these areas of funding?

Mr. Ushio: Yes. The State Office of Homeland Security will work with the State partners and Counties and we develop what is called "investments." We have not provided you the investment breakdown in our correspondence. We just kept it a little simpler. The first investment you see there number one, is Communications Interoperability Enhancements; the next item is Cybersecurity, Networks, and Information Technology (IT); the third is Critical Infrastructure Enhancements; and the fourth is Homeland Security Program and Project Support. What happens is statewide, we develop these different investments and each investment area may contain separate line items broken down by Counties and State departments.

(Councilmember Kagawa was noted as not present.)

Councilmember Yukimura: Okay, so they kind of define the areas of investment?

Mr. Ushio: Yes. So for Communications Interoperability Enhancements, it includes the first two (2), the Cybersecurity, Networks, and IT; the second; and then third one is Critical Infrastructure Enhancement; and the last two (2) fall under our Homeland Security Program and Project Support.

Councilmember Yukimura: Okay. Is it possible to use these moneys, the seven hundred eighty thousand dollars (\$780,000) or a portion thereof, for shelters?

Mr. Ushio: As far as shelters, we have never utilized this funding for that. I would have to look at the grant guidance, but having been the Grant Manager or Grant Coordinator as recently as nine (9) years ago, off the top of my head, I do not think a category would actually fit in here. What we do use for shelters, the State actually manages the shelter program as far as designation and assessments, and they hand over all of their data to the Counties. We work collaboratively with them, but State Emergency Management receives annual shelter retrofit funding from the Legislature. We prioritize certain facilities for retrofits and funding goes in that way. There is dedicated funding through the Legislature for shelter retrofits.

Councilmember Yukimura: So there is no Federal moneys for shelters?

Mr. Ushio: None that we have utilized or specifically earmarked for that.

Councilmember Yukimura: And you are saying that the State manages the shelter program?

Mr. Ushio: It is a combination. It is a team effort. Again, because the State funding is generated by the Legislature, Hawai'i Emergency Management Agency (HI-EMA) manages that pot and works with the Counties to designate or prioritize certain structures for retrofits. Now, the Counties, I should more accurately state, we will name the shelters and open and close them. The State has historically helped us with the assessments and the initial identification of those, but we are gradually handing off more of those responsibilities. But the funding on the legislative side remains with the State, so it continues to be a collaborative effort. Our current projects for say, Kalāheo Neighborhood Center gymnasium, it is a large concrete structure. We received a significant amount of funding to harden that with State funding to resist a Category 2 hurricane. That is an ongoing project right now. As more funding becomes available, we will prioritize other structures and possibly seek other sources of funding such as the Hazard Mitigation Grant Program or Federal funds that we apply for as a County.

Councilmember Yukimura: So there might be some Federal funds that are under a different category that could be used?

Mr. Ushio: Yes. Like I said, it is not specifically earmarked for shelters.

Councilmember Yukimura: Right.

Mr. Ushio: But something like the Hazard Mitigation Grant Program can be used for multiple purposes and on occasion, the County agency will apply, for example, Public Works or Parks. They can propose shelter retrofits or many other types of applications.

Councilmember Yukimura: Okay. I think Ms. Lowry made a good point about "shelter in place" and educating people about retrofitting some structural integrity or improvements in structural integrity, but I do not think that is the issue today.

(Councilmember Brun was noted as present.)

Councilmember Yukimura: I do support the idea of having a separate agenda item where we can talk about that whether I am here or not, because it is a critical issue and I think Hurricane Lane did raise that. I just wanted to acknowledge that. Thank you.

Council Chair Rapozo: Elton, how much do we receive for natural disasters from the State, Federal, or any external source?

Mr. Ushio: How much...

Council Chair Rapozo: Annually.

Mr. Ushio: Annually, it depends on whether or not we have a disaster.

Council Chair Rapozo: No, I am not talking about after the disaster. I am talking about before. These moneys, the seven hundred eighty thousand dollars (\$780,000) is not to remediate a cyber-attack. This is preparing for a cyber-attack. This is to deter or...

Mr. Ushio: It is a combination.

Council Chair Rapozo: How much do we spend on natural disasters or how much do we receive; are we actually making an attempt to get Federal funds for shelters, training, and all of that; and how much do we get every year?

Mr. Ushio: We have our County funding.

Council Chair Rapozo: External funding.

Mr. Ushio: Okay. We have an Emergency Management Preparedness Grant (EMPG) that supplements our emergency management efforts. That amount varies. It is Federal, but it is channeled through the State. In most years, we will get one thousand twenty thousand dollars (\$120,000) or one hundred thirty thousand dollars (\$130,000) and it will vary by amount. We are told that in the coming years, our EMPG allocation will be going up because of a Federal Emergency Management Agency (FEMA) recommendation for Hawai'i Emergency Management Agency, our State agency, to pass on more funding to the County level. But we will see there and generally, those funds have to be used to be prepare for, mitigate against, respond to or recover from natural or manmade disasters and other threats. The easiest application is used to support staffing. We currently use that to support a position in our Office, SR-24, and some other costs. Other specific Federal funding, the Homeland Security Grant Program.

Council Chair Rapozo: Yes, but that does not help us with disasters.

Mr. Ushio: No. But specific for disasters then, it is associated with disasters somewhere in the State, if not Kaua'i. For example, if there is any FEMA declared disaster that qualifies for public assistance that usually comes with hazard mitigation grants as well. So even if the disaster is on Hawai'i Island, funding becomes available for all of the Counties or all islands to apply for. We do that on a quite regular basis simply because we have been having more disasters statewide.

Council Chair Rapozo: Right. I guess my question is pre-disaster, not post. I guess my frustration is that we spend millions and millions and millions and millions of dollars on homeland security because the Federal government makes those moneys available, but we are getting hit by natural disasters. We have not had a terrorist attack on Kaua'i since I have been alive, but we spend a lot of money on that aspect because the money is available. But I do not see us making an effort for the natural disasters, creating more shelters, or for beefing up the shelters. I think

that is what I am hearing from the audience, what are we going as a County to improve our response or preparedness for natural disasters, which we get quite often?

Mr. Ushio: The reason why that “all hazards” term is included in the grant language is because FEMA and the Department of Homeland Security realized a long time ago that yes, since many jurisdictions, the likelihood of terrorism incidents are low so they do make it flexible. Much of what we propose here is not necessarily only anti-terror. It will apply to a major hurricane, hazardous materials incident, a large fire, all of what is spent on say detection equipment, and personal protective equipment (PPE) for first-responders, and interoperable communications equipment. It helps us respond to a variety of different incidents. Now, our preparation for natural disasters like a tsunami, flash flooding, or hurricanes, we admittedly do a lot of that with our County funding and some of our State funding. The Homeland Security grant though, still comes into play in incidents such as that. Some of the equipment we deployed for our April floods were Homeland Security equipment. The helicopter that we purchased in large part is a Homeland Security funds, was used to a large extent in the April flood disasters as were our communications systems. Many other things. We do try to do the full spectrum because as an Emergency Management Agency, we are supposed to prepare, respond, recover, mitigate, and do a little bit of everything. There is that overlap, even with the Homeland Security grant.

Council Chair Rapozo: I guess the question is, do we have enough shelter space in the event for the island? If we have a massive disaster, do we have enough shelter space?

Mr. Ushio: What the prior speaker noted is true in that statewide, there is shortage of shelter space if you look at the total population. Kauaʻi per capita, we do better than the other Counties. But things that she noted that I can help clarify, when she talked about the fifteen thousand dollars (\$15,000), that is for an engineering assessment and a stamp for rate a structure for certain wind resistance. The State has not had the funding to rate every single room because say if we have a shelter at the school, it is not just the school that gets a stamp. It is each room or each building that is used, needs to be certified that way.

(Councilmember Chock was noted as not present.)

Mr. Ushio: So what we have done statewide, is we have taken the old shelter data from the Hurricane Iniki-era afterwards and many structures that were previously deemed unusable, we removed from inventory and we have been gradually upgrading as we can. What has remained on inventory are those that have met prior FEMA standards or prior standards and then those that are concrete or what I would say harden construction, impact screens, shatterproof louvers, and things of that nature. So that has adversely affected shelter inventory, but we have been trying to pick the best structures. Our official shelter language statewide, what the speaker was referring to, is that if she was on Oʻahu, they would use similar language to us where we really do consider our shelters to be so to speak, refuges of last resort if you do not have a hardened structure or a well-constructed home to stay in.

(Councilmember Chock was noted as present.)

Mr. Ushio: They are better than being outdoors, in a poorly constructed home, or in an area exposed to strong winds on the ridge line or coastal storm surge. But in all honesty, they are not all rated for high levels of wind resistance. We have some rated for Category 1, some rated for Category 2, and some just meeting old standards or prior assessments by HI-EMA. We are gradually trying to increase.

Council Chair Rapozo: Do not we have a number of how many people we could shelter an event?

Mr. Ushio: An exact number, I would have to go back and look it up, but approximately fourteen thousand five hundred (14,500) off the updated data.

Council Chair Rapozo: Okay. Thank you. Councilmember Kawakami.

Councilmember Kawakami: The shelter situation is something that is ongoing and that is why as we continue to add facilities, both County and State, we have to make sure that it serves a dual purpose. I will give you a case in point. During my time at Legislature, the Kaua'i Delegation at time was Senator Kouchi, Representative Tokioka, Representative Morikawa, and myself. We would go to every single school before session to ask them what their top priorities were. We were at a principals meeting and Principal Aiwohi from Kapa'a Middle School said, "Look, you folks send people up to my school as a shelter, but we are not designed to be a shelter." He said that when they were designing the school, he kept on going back and forth with the architects because their priority is the aesthetic of the building and the purpose. His priority was, "I want it to be hardened because this is a shelter. This is where people go when there is a tsunami." Because of that, one (1) of his capital improvement project (CIP) requests were to do window hardening for some of those classrooms.

(Councilmember Kagawa was noted as present.)

Councilmember Kawakami: That is almost like the mindset that we have to have when we are adding on facilities or when we are designing new schools or new gymnasiums, to make sure that these structures serve a dual purpose. I want to really applaud Principal Aiwohi for having that foresight. That was back in 2012 when he said, "Hey, if there is a hurricane, we cannot have people here because these windows are not designed to be resistant to the hurricane force winds." He had the foresight to say, "Hey, can you add some money in the budget to retrofit some of our windows and harden our windows so that if and when we have a hurricane, these can be places where we can shelter?" The County has a program from a real property tax exemption that if you build a hurricane safe room, then you can shelter in place. These are the types of things that we should be promoting to new home builders. If we have to raise that exemption to get more people to participate, we should really carefully think about it because we are seeing an increase in the frequency and the

power of these types of storms. If we can get people to be able to harden their own structures, it takes the burden off of all of us to make sure that we have enough space for everyone. Thank you.

Mr. Ushio: That is a really good point. We do have ongoing community outreach and education, which includes information on home retrofits. To add to what you said about Kapa'a Middle School, when Kaua'i Emergency Management Agency (KEMA) was asked to provide testimony on the Lima Ola project, our input and what they integrated into the plan is that when the community center is built, that it be constructed to shelter standards. That is part of the plan now and we are trying to implement some of what you suggested.

Councilmember Kawakami: And then just one (1) more thing. I want to bring up a situation that I think was in the city or a large town of Hoboken. The Mayor in that city had a flooding event and they continue to have flooding events. One (1) of the challenges is all of this FEMA money comes back to building things back to what it currently used to be, and that is a challenge. She said, "When you take a look at cities and towns that have been hit by natural disasters, the Mayor is out there, 'We are going to rebuild to what we used to be,'" but is that really what we want to do? She worked with the Federal government to have a competitive bid as to designing Hoboken's infrastructure to be able to mitigate any future flooding event. It went out internationally, they had architects and engineers apply for it, and then the winner really had a master plan of what Hoboken was going to look like to be able to mitigate any future flooding. I think that is the challenge with FEMA as well, because we get money to rebuild it to how it was and then we are going to get another flooding event to wipe it all out again. So that is the challenge we are dealing with.

Mr. Ushio: Understood. Maybe not in a countywide approach, but we are applicable under FEMA public assistance for our April flood and landslide disaster. I see our Acting County Engineer is in the back of the room, so Lyle can correct me or provide more information if I misspeak or I do not provide enough. But we have projects such as Kahiliholo where the culvert washed out before. It is a FEMA project, it is being repaired, and under Section 406 mitigation, my understanding is that it will be built back stronger.

LYLE TABATA, Acting County Engineer: Good morning, Members. Lyle Tabata, Acting County Engineer. What Elton said is correct. When we have seen that say, for instance, Kahiliholo culvert could not carry the capacity, when the mitigation funds were made available in the process, we jumped right on it. So what is being installed presently is improved, hardened, and is a grade higher than what was originally installed. We have other projects going on that we have looked at similarly. Black Pot comfort station, for one, is another project and parts of Weke Road will also be similar. We are working with FEMA to work the process on Wainiha Powerhouse Road and that area. Yes, we are utilizing...

Council Chair Rapozo: I have to reel us back in to the grant.

Mr. Tabata: Okay, yes.

Council Chair Rapozo: Thank you, though. I think that discussion is important. Staff, maybe we can put something on for the next Committee Meeting that we can have an overview on that. Thank you. Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I appreciate the broad aspect. I think it is on everyone's mind. The last question Councilmember Kawakami brings it up. I will try to narrow it down to this item here because you talked about the funding here. My question would be around, you talked about State funding and the Homeland Security funding and how that transitions, but I think we do a great job of response and utilizing the funds to respond to the initial needs. The question is, can we utilize these funds that we are looking at and if not, what funds do we need to look at in doing exactly what they have done in that community, which is look at from a holistic standpoint? For instance, if need be, look at getting a hydrologist to create the hydrology study for Wainiha. Those are the kinds of things that I think are definitely under hazard mitigation, but it seem like it is stretching and moving away from Homeland Security. What can we do and what should we be looking at as a Council and a County to secure funds that can achieve that?

Mr. Ushio: Some of what you envision can be addressed through the Hazard Mitigation Grant Program. There are funds that are not under KEMA, but again, I would have to defer to Lyle. But there is the floodplain management and working with the Army Corps of Engineers as far as floodplain studies and things of that nature. We can even consider potential use of funds from the Legislature such as our Act 12 funding for flood disaster relief/recovery, but I cannot make a commitment to that because the management of those funds is a whole separate thing, a partnership between State and County.

Councilmember Chock: Just to clarify, it is a potential, but it would probably be partial funding towards initiatives like that?

Mr. Ushio: I think it is safe to say that we should look at a variety of funding and consider different mechanisms. If that indeed is a priority or something that we want to work on, then we will figure out a way.

Council Chair Rapozo: That is everyone's homework assignment, where can we find funding? My concern is the pre-event, not the post. I think we got that covered. Councilmember Yukimura.

Councilmember Yukimura: You have here enhance security perimeter around the existing Police Department and your Office, what is envisioned here?

Mr. Ushio: We have a legacy access control and badge system in place. That has been around soon after the build was constructed. What we are wanting to do for the entire facility, is to upgrade the system, new card readers, and entry points that we can remotely lock and unlock doors. It is just an overall security and access upgrade.

Councilmember Yukimura: But it is not like a barbed-wire fence all around? That is what I envisioned when it said security...

Mr. Ushio: No. It is like my KEMA badge gets me into KEMA.

Councilmember Yukimura: Right.

Mr. Ushio: It gets me into dispatch or facilities that I am authorized to enter. My HI-EMA badge gets me into the greater...

Councilmember Yukimura: Yes, so it is mainly the door access to the buildings?

Mr. Ushio: Yes.

Councilmember Yukimura: That you are upgrading?

Mr. Ushio: And I believe they have some surveillance like cameras that need to be upgraded as well because the building was constructed in 2002 or 2003. People say it is the best Emergency Operating Center (EOC) in the State, but it is starting to age.

Councilmember Yukimura: Okay. When it said "all hazards catastrophic preparedness," which I think you mentioned does give it that flexibility, but does it nonetheless have to fit into these investment categories? Is that how it works?

Mr. Ushio: Investments are—I would not say that it automatically has to fit into those investment categories because we collaboratively create the investments based on the types of projects that we propose. Funding areas fall into basic categories. The acronym is for POETE; Planning, Operations, Equipment, Training, and Exercises. Those are the allowable cost categories and you have to go through the grant guidance to see exactly what type of expenses are allowable under each of those. What we have identified as investments again, are collaboratively developed statewide between the State and the Counties.

Councilmember Yukimura: But shelters could count as critical infrastructure, or no?

Mr. Ushio: In all honesty, while I said we have never utilized Homeland Security funds towards that, I would need to research the most current grant guidance. Not being directly responsible for administering the grants anymore, I have not read the grant guidance cover-to-cover as I used to, but it is something I could look into or have our grant staff research.

Councilmember Yukimura: Yes. It does seem like there has been a traditional or historical division that puts shelters under State funding, but just knowing how small that is or how much competition there is for State funding, I just wondered whether we could access more Federal moneys.

Mr. Ushio: In all honesty, that set-up has worked well not in any small part due to the fact that the majority of our shelters are at State facilities.

Councilmember Yukimura: Oh, yes.

Mr. Ushio: The Department of Education and Kaua'i Community College, with very few at County facilities.

Councilmember Yukimura: Right. Along the lines that Councilmember Kawakami spoke about design of buildings, and that is what we did with individual homes when we passed the new Building Code right after Hurricane 'Iniki, which required people not just to build back as it was, but to build stronger. It was a bit disconcerting to people because they had to learn a new Building Code and a one percent (1%) increase in cost, but it sure paid off. Has the Emergency Management people suggested that the design requirements for schools, for example, or for public buildings take into account structural integrity or structural ability to withstand hazards as an across-the-board design procurement requirement so that all schools—because that would be kind of, over time, the way to provide adequate shelters? If all the schools, as they are built, so they do not have to be retrofitted as Principal Aiwahi had to request, if they just came readily designed and made for structural integrity.

Mr. Ushio: During my limited tenure as the Emergency Management Administrator, I am not aware of any direct statewide efforts from Emergency Management to create legislation to that effect, but I am aware of some laws being on the books that requires structures housing a certain amount of people to be built, I believe, to shelter standards. I would have to research that and consult with the Office of the County Attorney to find exactly what clause that is.

Councilmember Yukimura: Mainly, it would be doing what you recommended for Lima Ola's community center, make it a County requirement so you would not have to go and testify or give comments every time there was a proposed community center or school.

Mr. Ushio: Okay, fair enough.

Council Chair Rapozo: Elton, I am going to stop because I think we have gone far outside now. We are focusing on this grant and I do want to have that discussion. We will have it next week in Committee, but for right now, if we have any questions on the grant and the funding in the grant, I would appreciate it.

Councilmember Yukimura: Okay. I was just taking off of previous conversation on the floor.

Council Chair Rapozo: I know.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: I am trying to be flexible, but I am looking at the clock and I see a bunch of people here to testify on other matters, so I want to be respectful of them as well.

Councilmember Yukimura: Surely.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Yukimura: Thank you.

Councilmember Kagawa: When I do it, it is a problem, but when they do, it is no problem. It is amazing.

Council Chair Rapozo: Okay. Are there any other questions? Thank you. Is there anyone in the audience wishing to testify? Seeing none, I will call the meeting back to order.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The motion is to approve.

The motion to approve C 2018-229 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-230 Communication (10/09/2018) from the Executive on Aging, requesting Council approval to receive and expend State General Funds for Fiscal Year 2019 and to indemnify the State Executive Office on Aging, in the amount of \$72,790.00 to be used by the County of Kauai, Agency on Elderly Affairs for the operating costs of the Aging and Disability Resource Center, which includes consultant services, inter-island travel, travel expenses for national conferences, postage, printing of a resource directory, online training programs, promotional items, replacement of electronic equipment, and supplies: Councilmember Yukimura moved to approve C 2018-230, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-230 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-231 Communication (10/09/2018) from Adam P. Roversi, Deputy County Attorney, requesting Council approval of the indemnification provision contained in the Terms of Service Agreement for Logikcull, a cloud based eDiscovery software provider, to help streamline the Office of the County Attorney's discovery process making it both more efficient and reliable.

- Terms of Service Agreement

Councilmember Brun moved to approve C 2018-231, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?
Councilmember Yukimura.

Councilmember Yukimura: I just wondered—are you going to answer, Mauna Kea?

Council Chair Rapozo: With that, I will suspend the rules.

There being no objections, the rules were suspended.

MAUNA KEA TRASK, County Attorney: For the record, Mauna Kea Trask, County Attorney.

Councilmember Yukimura: Thank you.

(Councilmember Brun was noted as not present.)

Councilmember Yukimura: My only question is, procedurally does the Office of the County Attorney or any County Department coordinate with the IT Division when you purchase software like this?

Mr. Trask: Yes, we do.

Councilmember Yukimura: So it was coordinated?

Mr. Trask: Yes, I believe so. Yes. When you say “coordinate,” I think we work with them. IT does all the IT in County, so whenever you engage in software, you talk with them about network compatibility and whatnot.

Councilmember Yukimura: Right.

Mr. Trask: But this is cloud-based, too. This is not replace the documents that we have in the County and/or remove anything from our servers. It is an addition to it and allows for, like Mr. Roversi said in his letter, the ability to securely upload bulky discovery and provides an array of tools to search, catalog, and redact and ultimately download eDiscovery in a usable and organized form to produce or utilize during the course of litigation.

(Councilmember Brun was noted as present.)

Councilmember Yukimura: Yes.

Mr. Trask: The Office of the County Attorney has done a lot to maximize its efficiency by utilizing high-level electronic sorting and other types of technology. It is really the cusp of the legal field as far as it goes to process and procedure. It is effectively necessary if you want to keep costs down and process the hundreds of thousands of documents that is typical to deal with nowadays.

Councilmember Yukimura: As I said, I think it is a good thing to do. Thank you.

Council Chair Rapozo: Are there any other questions? Seeing none, thank you very much.

Mr. Trask: Thank you.

Council Chair Rapozo: Is there any public testimony?

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The motion is to approve.

The motion to approve C 2018-231 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-232 Communication (10/12/2018) from Council Chair Rapozo, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 15, Article 4, Kaua'i County Code 1987, As Amended, Relating To Outdoor Signs, to allow nonprofit organizations to post temporary outdoor signs relating to their upcoming events without the requirement of a signage permit: Councilmember Brun moved to receive C 2018-232 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The motion is to receive.

The motion to receive C 2018-232 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-233 Communication (10/15/2018) from the Emergency Management Administrator, requesting Council approval to accept a donation from the Federal Emergency Management Agency (FEMA), of 34 pallets of Aqua Liters emergency drinking water, for a total of 2,550 cases or 30,600 liters of water, valued at \$46,240 based on online pricing: Councilmember Kagawa moved to approve C 2018-233 with thank-you letter to follow, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-233 with thank-you letter to follow was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

LEGAL DOCUMENT:

C 2018-235 Communication (10/12/2018) from the Housing Director, recommending Council approval of a Dwelling Unit Revolving Fund (DURF) Loan Agreement and Loan Documents, in the amount of up to \$13,000,000.00, between the County of Kaua'i and the Hawai'i Housing Finance and Development Corporation (HHFDC), to fund the infrastructure improvements for Lima Ola Workforce Housing Development Phase I, and to authorize the County Clerk to sign the following legal documents related to the DURF Loan:

- Loan Agreement;
- Mortgage, Security Agreement, and Financing Statement;
- Note;
- Hazardous Materials Agreement; and
- Monitoring Agreement

Councilmember Brun moved to approve C 2018-235, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. With that, I am going to suspend the rules and have Housing or someone from the Administration, whoever is the designated person to come up and explain this Communication. Hō'ike how far are we from a caption break? 11:00 a.m. Kanani, we will let you go through your entire presentation, then we will take a caption break, and have the discussion after that. Thank you.

KANANI FU, Housing Director: Good morning, everyone. Kanani Fu, Housing Director. I just wanted to quickly introduce with me today, we have Craig Hirai, who is the Executive Director of the State Hawai'i Housing Finance and Development Corporation (HHFDC), also known as "the Santa Claus of housing," and

then to his right, we have Koa Duncan who is the lead for this project for the Dwelling Unit Revolving Fund (DURF) loan. As technical questions arise throughout the presentation or after, Koa can respond to those. Just really quickly, I wanted to provide the Council and the public an update of Lima Ola, how far we have come, and what our request in front of Council is today. As you know, the request before you is to approve the loan terms for Dwelling Unit Revolving Fund. Just for those of you who are unfamiliar with Lima Ola, Lima Ola is a community located in 'Ele'ele on the west side of Kaua'i. It is seventy-five (75) acres.

Council Chair Rapozo, the Presiding Officer, relinquished Chairmanship to Councilmember Kagawa.

(Council Chair Rapozo was noted as not present.)

Ms. Fu: The vision of Lima Ola is to be one hundred percent (100%) affordable, incorporate green futures, promotes a healthy lifestyle, and encourages a close-knit community. An overview of our progress here that we have made, it might be small to read, but it is just an overview. In 2010, the County purchased the seventy-five (75) acres and then we started work with the community in 2012 to develop the Lima Ola Workforce Housing Development Master Plan, which from that, drew a lot of design concepts and a lot of the master plan objectives and goals that would be accomplished in this community. Between 2012 and 2016, the Kaua'i County Housing Agency, who is the Department leading this project, we were in progress of completing a lot of the pre-development requirements, the environmental requirements, as well as the public outreach requirements to receive permitting approvals. In 2016 after all of that was done, the County Council approved the Lima Ola 201(H) application and Resolution No. 2016-53 is adopted. This gave us the permission from the County Council to move forward with the re-entitlement of Lima Ola, the parcel. Council approved this motion or this request from the Housing Agency and then we went in 2017, to the State Land Use Commission (LUC) and we received unanimous approval there with the land designation change. So that was done in July of 2017.

Ms. Fu: Subsequently following that approval from the State Land Use Commission, the Housing Agency then came back to the County Council and the County Council approved the DURF loan application and Resolution No. 2017-43, which gave us the permission to enter into a DURF loan with HHFDC. That was the Resolution in 2017. In 2018, the beginning of this year and then a follow-up board meeting in June of this year, the State of Hawai'i Housing Finance and Development Corporation Board approved up to thirteen million dollars (\$13,000,000) for the funding of the DURF loan. This is just an overview of the past eight (8) years of Lima Ola and we are moving forward.

Today, what we have before you is a loan application packet that is requesting—these are the terms that were negotiated on the DURF loan. So this an overview of the amount, the interest, the loan origination fee, the service fee, and term length. These costs that we will incur during Fiscal Year (FY) 2019 with the loan obligations have already been incorporated into our FY 2019 budget, things such as the origination fees, servicing fee, and those things.

If we look on the bottom of repayment options, the County of Kauaʻi has the option of paying cash or paying in-kind. The idea of Lima Ola was then to create the master plan to develop Phase I, which will commence shortly, and as an option of paying back the DURF loan, in-lieu of cash, we could convey completed parcels to the borrowing agency, HHFDC. The idea could be our loan obligation is paid off through improved lots that HHFDC now holds title to and similar to the Housing Agency at a State level, they have the same kinds of affordable housing goals and desires for the rest of our lives. We are the same. So that was that. Also to that, what continues to be an option for us is the continual legislative appropriation that Lima Ola could receive to pay off this loan. In the past, we have received small portions of CIP funds. Those things are not incorporated in the anticipated payback ways, but we know that cash can be.

In Phase I, the bulk of the money that we are requesting for this DURF loan is really to do—a majority of the work for the development happens on the front-end of Phase I. The majority is the improvements on the highway, a lot of site grading, roadways, bus stops, and laying our utilities. This money that is being proposed and requested from HHFDC must be used for infrastructure improvements. That is it. I just wanted to kind of give an overview that Lima Ola is kind of a long project and awaiting. The goal of Lima Ola was to get the land ready and available so the developers who have to meet their affordable housing requirement could come in and develop. Also, the County could continue to have a place to develop should other areas of the island get difficult to develop in and things like that. This started with Mayor Bryan Baptiste, so it was an Administration ago. It carried over to Mayor Carvalho's Administration and finishing out will be with the next Mayor. The approval of the DURF loan will be the last piece to finance the project and commence the project. Thank you.

Councilmember Kagawa: Thank you. Does anyone want to share anything before we have questions?

CRAIG HIRAI, Executive Director of the Hawaiʻi Housing Finance & Development Corporation: I am Craig Hirai, the Executive Director of the Hawaiʻi Housing Finance and Development Corporation.

Councilmember Kagawa: Thank you for all of your help.

Mr. Hirai: Today, I have my Project Manager, Janelle Ward, who is from Kauaʻi and grew up here. I also have my Board Chair, Milo Spindt. My Board has approved this loan.

(Council Chair Rapozo was noted as present.)

Mr. Hirai: We are ready to proceed and I am here to answer any questions you might have.

Councilmember Kagawa returned Chairmanship to Council Chair Rapozo.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: I just wanted to thank you, Craig and HHFDC, for this DURF loan. We have worked together at the Legislature and so your commitment to Kaua'i is very appreciated. Thank you for your hard work. Kanani and the Housing Agency, thank you for putting this all together. This is going to be truly one hundred percent (100%) affordable for local families. It is something that the west side of Kaua'i needs so much and so this is going to be a great project. Thank you.

Mr. Hirai: Thank you.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Hi Craig, Kanani, and Koa. The title of the project is "Lima Ola Workforce Housing Development," is that it?

Ms. Fu: Yes.

Councilmember Yukimura: That is what the agreement says it is.

Ms. Fu: Yes.

Councilmember Yukimura: But it is not just going to be for workforce, right? It is going to have elderly housing, housing for people with disabilities, and...

Ms. Fu: Yes.

Councilmember Yukimura: ...those who may not be working for whatever reason. They are not be excluded, right?

Mr. Hirai: No.

Ms. Fu: The definition of "workforce" as it is in our Ordinance relates to affordable housing, so workforce...

Councilmember Yukimura: In general.

Ms. Fu: ...on all projects, is used as a general term.

Councilmember Yukimura: Okay, good. Thank you for that clarification. How many are going to be rental and how many are going to be for sale?

Ms. Fu: In Phase I?

Councilmember Yukimura: Yes.

Ms. Fu: There is a total of one hundred forty-nine (149) units, thirty-eight (38) of them are single family with the remainder of multi-family, one hundred eleven (111).

Councilmember Yukimura: Thirty-eight (38) are single-family and one hundred eleven (111) are rental?

Ms. Fu: Yes, multi-family.

Councilmember Yukimura: Multi-family?

Ms. Fu: Yes.

Councilmember Yukimura: I think your loan documents say that they are going to be affordable in perpetuity as required by the deed of Alexander & Baldwin Properties, Inc. (A&B), and I just wondered how that is going to be implemented.

Ms. Fu: I do not have an answer to that right now. You could send it over. I am not sure what you are referring to.

Councilmember Yukimura: I am sorry?

Ms. Fu: How are we going to implement the permanent affordability of the units at Lima Ola?

Councilmember Yukimura: Right.

Ms. Fu: Through a deed recordation.

Councilmember Yukimura: So will it be a buyback clause or will it be leasehold for single-family?

Ms. Fu: We have not gotten to that decision yet. That decision has not been made.

Councilmember Yukimura: Why not, because it seems to me that the policy has been recently, that the single-families are leaseholds?

Ms. Fu: Yes.

Councilmember Yukimura: Are you changing that?

Ms. Fu: What makes Lima Ola difficult to tell you what the single homes are going to be right now is because we are approximately two (2) years off of developing and constructing those actual, physical homes. Between now and that time, we could have different models come to line, we could have different developers, or we may be interested in Habitat for Humanity who does a different kind of development. They do fee-simple. We may get a nonprofit developer that comes in who can do leasehold. We are not there yet.

Councilmember Yukimura: But that is why I am asking the question because you say, and it is in the agreement, that it is going to be perpetually

affordable. If it is a Habitat for Humanity situation, then it is ten (10), twenty (20), or thirty (30) years, which is not meeting the loan requirement. I am just asking...

Ms. Fu: And that is...

Councilmember Yukimura: This is a proposal, so I am figuring that you have figured out how you are going to implement the proposal.

Ms. Fu: Implement the proposal for affordable housing or implement the proposal to pay back the loan?

Councilmember Yukimura: According to the loan agreements and the loan document. You probably know it, Koa, which page is it? It was on the project—the “for action” requests.

Ms. Fu: What page?

Councilmember Yukimura: HHFDC, which is page 1 of 4, Exhibit 1. It says, “Length of affordability: Perpetuity, footnote: Pursuant to the Warranty Deed With Restrictions and Covenants on the property.”

Ms. Fu: Yes.

Councilmember Yukimura: Is this the basis by which the money is being requested?

Ms. Fu: The basis, yes, we included that because of the land title.

Councilmember Yukimura: And the recommendation is being approved, so I would think that the County has a plan for how this is going to be done.

Ms. Fu: Your question is whether we are going to do leasehold or fee-simple, and my response is at the time, it is premature to make that decision.

Councilmember Yukimura: Well, fee-simple means that it will not be affordable forever.

Ms. Fu: We are not there yet. There could be ways of creating permanent affordable. Right now, we are not there.

Councilmember Yukimura: What are the ways that you are looking at?

Ms. Fu: We are not there. I do not have the answer for that, on how we are going create a permanent affordable fee-simple plot at this time.

Councilmember Yukimura: They are sort of legally contradictory in my mind. I could be wrong, but I do expect the Housing Agency to know how they are going to implement it.

Ms. Fu: How we are going to implement...we currently utilize leasehold sales.

Councilmember Yukimura: Yes.

Ms. Fu: That is our current model, but for us to stand before you right now and I am not even the Director in the next Administration or what the forward move is, to say that we are going to do leasehold or tie us to one model at this time...

Councilmember Yukimura: I am not asking you to tie to...

Ms. Fu: All we need to ensure is perpetual affordability...

Council Chair Rapozo: Hang on.

Ms. Fu: ...and there are many methods of doing that.
There are several methods.

Councilmember Yukimura: That is why I am just asking what those methods are that are you considering.

Council Chair Rapozo: Kanani, is the plan of the Administration at this moment permanent affordability?

Ms. Fu: No, it is not.

Council Chair Rapozo: It is not?

Ms. Fu: The plan of the Administration for Lima Ola?

Council Chair Rapozo: Yes.

Ms. Fu: Permanent affordability, no.

Council Chair Rapozo: It is not?

Ms. Fu: No.

Council Chair Rapozo: Okay. I am just asking.

Ms. Fu: It is not. When the land was deeded to us, it came with the restriction that only affordable housing could be built.

Council Chair Rapozo: Correct.

Ms. Fu: Only affordable housing could be built, so the deed does not restrict that. It restricts us for the type of product and housing we can build. It does not prevent us from making it only permanent or it does not require us for it to be permanently affordable.

Council Chair Rapozo: Okay. Councilmember Kagawa.

Councilmember Kagawa: When we went before the Land Board, Councilmember Yukimura opposed Lima Ola. Councilmember Brun and I supported Lima Ola, so that is why we are getting these kinds of questions. Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. Director, is it not true that one of the tools that we, as a County, can use to keep affordable housing in perpetuity is to give the County the first right of refusal so that when a homeowner decides to move or sell, that it comes back to us first so we can put our money where our mouth is if that is truly our mission, and we have utilized that tool and that tool has been successful?

Ms. Fu: Yes. Thank you, Councilmember Kawakami. Again, we have a variety of tools and mechanisms we can use, that being one of them, the first right of refusal where the County gets first option to buy it back. When we are looking though at one, Lima Ola, fortunately, the land with Lima Ola will be under the County ownership. If the County owns the land, we do require it to be permanently affordable. However, we could run into the scenario where we convey the in-kind lots over to the State and they require—what do you folks require? Sixty-five (65) years affordability?

Mr. Hirai: Which lots?

Ms. Fu: Your Lima Ola gift.

Mr. Hirai: The multi-family lots are intended to be affordable. We are looking at low-income housing tax credit type of rental. We would Request for Proposal (RFP) it out for that. We have not decided yet whether it is going to be family or senior. But we are kind of leaning towards family low-income housing tax credits right now. We will be working with you and the County Housing Agency to decide what exactly the mix will be before we put out the RFP.

Councilmember Yukimura: The low-income housing tax credit would mean that it is sixty percent (60%) of median income or lower?

Mr. Hirai: Yes.

Councilmember Yukimura: For sixty (60) years?

Mr. Hirai: Or the life of the lease.

Councilmember Yukimura: Or the life of the lease. Okay. The first right of refusal, Kanani, you say that is the way to ensure perpetual affordability, but Courtyard at Waipouli is an example of it failing.

Ms. Fu: Yes.

Councilmember Yukimura: I do not know that is an insurance to get it there. Okay.

Council Chair Rapozo: You know...

Councilmember Kagawa: I have a process question.

Council Chair Rapozo: Yes.

Councilmember Kagawa: Is Courtyard of Waipouli part of this agenda item?

Council Chair Rapozo: No, it is not. I think...

Councilmember Yukimura: It is related to the issue of first right of refusal.

Council Chair Rapozo: Hang on. When I read your "for action," page 1, it talks about the project, infrastructure, applicant, location, and seventy-five (75) acres. Length of affordability says "perpetuity." That is what this is telling me. That is why I looked surprised when you said, "No." I went into this thing, Lima Ola, assuming that it was going to be forever and the documents that I have in front of me tells me it is going to be forever. I am just curious. Is it or not? I heard "not," but I am looking and it is telling me right here, and this is dated June 14, 2018.

Ms. Fu: Perpetual affordability means forever and ever when the home comes up, the next person who buys it, buys it at an affordable rate.

Council Chair Rapozo: Correct.

Ms. Fu: And that is what this is intended to be. The question was whether we are going leasehold or what is the type of model we are going to utilize for single-family? At this time, there are several models. We could do a leasehold sale with limited equity, we could do a community land trust, or we could do co-ops.

Council Chair Rapozo: No. When I asked if it is the Administration's position today was for it to be perpetually affordable...

Ms. Fu: For Lima Ola to be...

Council Chair Rapozo: Yes.

Ms. Fu: Lima Ola has to be affordable by right of the deed restriction.

Council Chair Rapozo: Okay. That is fine.

Ms. Fu: Yes.

Council Chair Rapozo: It was not said earlier and that is why I looked surprised.

Ms. Fu: Okay.

Council Chair Rapozo: So it is perpetually affordable?

Ms. Fu: Yes.

Council Chair Rapozo: Okay.

Ms. Fu: But the method by which...

Council Chair Rapozo: Yes...

Ms. Fu: ...single-family homes can be delivered out, is not...

Council Chair Rapozo: I do not expect you to be telling us how you are going to do it.

Ms. Fu: I do not have that right now.

Council Chair Rapozo: I just need to know whether or not it is going to be permanently affordable or not because we were told it was and this document tells me it will be.

Ms. Fu: Yes.

Council Chair Rapozo: That is the clarification I wanted. How you do it, Kanani, or whoever is going to do it, that is fine.

Ms. Fu: Okay.

Council Chair Rapozo: I do not care if it is leasehold or housing trust. It does not matter as long as it is permanently affordable because that is what we were sold on.

Ms. Fu: Okay.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, yes, that is really the answer I was looking for and the models that you are contemplating because we want to make sure and you just rattled them off; community land trust and limited equity co-op. Those kinds of things are what would make me see that you actually have some ways to implement them. Thank you.

Council Chair Rapozo: Are there any other questions for the Administration? If not, thank you very much.

Councilmember Yukimura: I do.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: I have several questions.

Councilmember Brun: About twenty (20).

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: Yes, I do have about twenty (20). What is the timetable for completion? This is a big amount, thirteen million dollars (\$13,000,000), so I think, and if my questions are irrelevant, Council Chair Rapozo, please...

Council Chair Rapozo: We are going to take a caption break because we have to take a caption break. But before we go to caption break, this is how it is going to go down, if the Administration cannot answer, they cannot answer, and they will respond later. I am not get into a debate of why you cannot respond. No. You ask a question and if they do not respond or they cannot respond today, we will send it over in writing, and will get a response. I am not going to spend hours today to go over why you cannot respond. If you cannot respond, we submit it across in writing, and we will get a response in writing.

Ms. Fu: Thank you.

Council Chair Rapozo: Okay. With that, we will take a ten (10) minute caption break.

There being no objections, the meeting recessed at 10:56 a.m.

The meeting reconvened at 11:16 a.m., and proceeded as follows:

(Councilmembers Chock and Kawakami were noted as not present.)

Council Chair Rapozo: Councilmember Yukimura, you had the floor.

Councilmember Yukimura: Yes, where is Kanani? Thank you. Okay. My next question is, what is the timetable for completion?

There being no objections, the rules were suspended.

Ms. Fu: The timetable for completion to utilize for Phase I infrastructure is 2020.

Councilmember Yukimura: Okay.

Ms. Fu: We are anticipated to commence January. We anticipate going out to bid about December/January and shortly thereafter, we would commence.

Councilmember Yukimura: Okay.

(Councilmember Chock was noted as present.)

Councilmember Yukimura: On page 10 of Exhibit B, the loan is subject to commencement of construction by May 2018. So is that...

Ms. Fu: Where are you looking at?

Councilmember Yukimura: Page 10, Exhibit B.

KOA DUNCAN, Project Coordinator: Is it on the loan agreement, Councilmember Yukimura?

Councilmember Yukimura: Let me see. It is maybe the "for action," but it was the terms of approval.

Ms. Fu: I see it.

Councilmember Yukimura: You see it?

Ms. Fu: Yes.

Councilmember Yukimura: Your completion date fits, "otherwise extended at the sole discretion of the Executive Director."

Ms. Fu: Oh, yes. He is sitting right here and can extend it.

Councilmember Yukimura: So there will be another...you just said, Kanani, that you are now planning to break ground?

(Councilmember Kawakami was noted as present.)

Ms. Fu: We have a tentative date of January or February.

Councilmember Yukimura: January or February of 2019?

Ms. Fu: 2019.

Councilmember Yukimura: Okay. Thank you. Then on Exhibit 1, page 5 of 7 it says, "Subject to the term and provisions contained in the Declaration of Important Agricultural Lands," is that hopefully not relevant anymore?

Ms. Fu: Which page, Councilmember Yukimura?

Councilmember Yukimura: Exhibit 1, page 5 of 7.

Ms. Fu: Okay. Page 5 of 7. What item are you looking at?

Councilmember Yukimura: I do not know. I am looking for it myself. It actually said it several places. Do you have an attorney working with you on this? Is there an assigned attorney?

Ms. Fu: Yes, Mauna Kea Trask is our assigned attorney for this document.

Councilmember Yukimura: Do you know the answer, Mauna Kea?

Ms. Fu: She is trying to find the page of reference.

Councilmember Yukimura: I was hoping that someone would have more familiarity with the documents. Okay, here it is. Exhibit 2, page 5 of 7. It is Exhibit 2, Property Legal Description, including encumbrances.

Ms. Fu: Okay.

(Councilmember Kawakami was noted as not present.)

Ms. Fu: What are we trying to accomplish right now?

Councilmember Yukimura: I am just trying to...

Ms. Fu: Everyone is in their own conversation.

Councilmember Yukimura: I was trying to ask what the reference in the encumbrance means when it is subject to the terms and provisions in the Declaration of Important Agricultural Lands.

Ms. Fu: Okay, and what document are you looking at right now so we can all get to the same reference?

Councilmember Yukimura: I said it is Exhibit 2, Property Legal Description, including encumbrances.

Mr. Trask: For the Record, Mauna Kea Trask, County Attorney. What is your question?

Councilmember Yukimura: What does it mean that it is subject however to the Declaration of Important Agricultural Lands?

Mr. Trask: I do not mean to be circular, but that is what it means. It is subject to that Declaration.

Councilmember Yukimura: What are the implications?

Mr. Trask: I do not know if there are any because there is that we are talking about...

Councilmember Yukimura: Well, I just would like to be...if it does not have any implications, can you just tell me that?

Mr. Trask: No, because I do not know if there are any.

Councilmember Yukimura: Okay.

Mr. Trask: If you look on page 1 of 7 of Exhibit 2, it describes Lot A. It is land situated at 'Ele'ele, Kōloa, Kaua'i, Hawai'i, being a portion of Royal Patent 4485, Land Commission Award 7712, Apana 5 to M. Kekūanā'ō'a.

Councilmember Yukimura: I can read that.

Mr. Trask: What this says is that is a larger parcel and so that is a *konohiki* lot. Mataio Kekūanā'ō'a received a ton of land during the Great Māhele. This is a small seventy-five (75) acre portion of that. In and around this area, the Declaration of Important Agricultural Lands, my understanding is that designation of Important Agricultural Lands (IAL) in that area wherever we were going to site the landfill, because that is in and around the Kaua'i Coffee area. I am not sure that, and this is March 2009. That was on or about that time where they cited it IAL so as to take that out of consideration for the exclusionary study for the landfill that we were doing at that time. I did not have that, but I assume that because of that time in and around that area, it applies to that, which itself is a portion of the larger *konohiki* parcel. When it says "a portion of" and you do the metes and bounds descriptions on page 1 of 7, which is a survey, that is what it describes. So to say that this effects the housing development, I do not think...if that is what you are asking, I cannot say it even applies.

Councilmember Yukimura: It would be just good to you be able to say, "it does not apply," and then I am done. Thank you.

Mr. Trask: Ethics binds me not to speak about what I do not know, so if you would like me to pull it...

Councilmember Yukimura: I think it is a great idea.

Council Chair Rapozo: Let him finish, Councilmember Yukimura, please.

Mr. Trask: Please. Just for the clarity of record, do not speak over me. If you want me to check out instrument #9 and get that to you, I will be happy to.

Councilmember Yukimura: Okay.

Mr. Trask: But I do not want to talk out of turn and represent something that I do not know to be accurate.

Councilmember Yukimura: I am just asking the question because I do not have the answer myself and if you do not have the answer, then if you could get the answer, that would be helpful. Thank you.

Council Chair Rapozo: Are there any more questions?

Councilmember Yukimura: The County is to pay back in finished lots and those lots will have the value—do you have an estimated value that they are going to be so that we know the ballpark figures would allow for that kind of payback as feasible?

Ms. Fu: The property is going through the appraisal process and we anticipate a three (3) week completion date.

Councilmember Yukimura: Sorry?

Ms. Fu: The appraisal is happening right now and it should be finalized in three (3) weeks.

Councilmember Yukimura: Oh, okay.

Ms. Fu: The appraisal is a requirement to complete the loan document, so we will have the evaluation of the parcels at the time.

Councilmember Yukimura: Is it a valuation of the project undeveloped and the valuation projected value of a developed parcel?

Ms. Fu: Yes.

Councilmember Yukimura: Okay, that is good. Can you send that to us when you do get it?

Ms. Fu: Yes.

Councilmember Yukimura: Thank you. Page 3 of 4, County requested amendments of the loan term. Actually, it is in both the original loan term and the requested amendments, which I believe were approved. It is just the wording, "value of credits or reservations for infrastructure capacity." Can you just explain what that means?

Ms. Fu: What it means is that the lot itself, for example, let us just a Lot 1 at Lima Ola, the value of the credits as well. It also comes with the allocation of the allocated water meters to that lot because...

Councilmember Yukimura: I see.

Ms. Fu: ...the density would allow for, if you were to do the maximum density, you could have eighty (80) units, but what has been allocated to the lot is only forty (40) water meter credits. The lots were divided by available water meter usage.

Councilmember Yukimura: Okay. Of the one hundred forty-nine (149) unit, what is the planned median incomes that these homes will be built for? Is it going to be all eighty percent (80%) in the first phase?

Ms. Fu: Are you talking about the single-family?

Councilmember Yukimura: I am talking about Phase I.

Ms. Fu: Phase I has one hundred eleven (111) multi-family units and two (2) of those three (3) lots are slated to go to HHFDC. So those multi-family units, you could assume would be the Low-Income Housing Tax Credit (LIHTC).

Councilmember Yukimura: Sixty percent (60%) of median income?

Ms. Fu: But the remainder of thirty-eight (38) single-family homes, we will most likely be assuming that those homes are for one hundred percent (100%) and below.

Councilmember Yukimura: Okay.

Ms. Fu: Unless we receive or we have a way to increase our Housing Development Fund, we could target and reach a higher income group, but we would mostly be targeting one hundred to eighty percent (100-80%).

Councilmember Yukimura: If you have a higher income group, which I support because I really believe in a mix of incomes, would it not be less money because they would be capable of paying more and would require less government moneys?

Ms. Fu: Yes, but how we build a lot is using government money that is only particular for an income group. A large reason of why we would choose to build perhaps single-family units for eighty percent (80%) is because we would receive a three million dollar (\$3,000,000) HOME Investment Partnerships Program (HOME) grant.

Councilmember Yukimura: Oh, I see.

Ms. Fu: So the types of money we utilize determines the income groups we can serve.

Councilmember Yukimura: Right, which is why a bigger Housing Development Fund for the County would be helpful in having that kind of flexibility.

Ms. Fu: Yes, because you could be flexible with the money.

Councilmember Yukimura: And you would not be tied to the income level restrictions of the Federal or State funding sources?

Ms. Fu: Yes.

Councilmember Yukimura: I see. Okay. Is it your intention that the one hundred eleven (111) units, which will be multi-family, will be sixty percent (60%)?

Mr. Hirai: We are anticipating they will be low-income housing tax credit projects, yes.

Councilmember Yukimura: Yes, low-income that will tie you to sixty percent (60%)?

Mr. Hirai: More or less, yes. The short answer is "yes."

Councilmember Yukimura: Oh, yes because of income averaging and things like that.

Council Chair Rapozo: Mr. Hirai, where is the microphone?

Mr. Hirai: Is it supposed to be right here?

Council Chair Rapozo: Yes, because we are trying to make sure everyone can hear what you saying.

Mr. Hirai: I am sorry.

Council Chair Rapozo: Thank you.

Mr. Hirai: Typically, low-income housing tax credit projects services an income level of sixty percent (60%) of the area median

income (AMI). There have been some recent developments that may allow more flexibility of that or a slightly different mix in the future, but that is still pending final rules and things like that. I do not think anyone in the Country has actually used it yet, but so the short answer is basically sixty percent (60%) of area median income.

Councilmember Yukimura: Okay. I have two (2) more questions. We are borrowing up to thirteen million dollars (\$13,000,000) for Phase I, what is the total estimated cost of building Phase I to completion?

Ms. Fu: The total Phase I budget for just the infrastructure is twenty million dollars (\$20,000,000).

Councilmember Yukimura: Twenty million dollars (\$20,000,000)?

Ms. Fu: Yes.

Councilmember Yukimura: Okay, but what about...I am talking about to turnkey where people move in. What is estimated cost?

Ms. Fu: We estimated vertical construction and these are based on numbers that we are utilizing, so one hundred eleven (111) units and thirty (30) multi-family, which is over a thirty-one million dollar (\$31,000,000) vertical cost.

Councilmember Yukimura: Thirty-one million dollars (\$31,000,000)?

Ms. Fu: In vertical construction.

Councilmember Yukimura: So, a total of basically fifty-one million dollars (\$51,000,000) to build all of Lima Ola?

Ms. Fu: Fifty-four million dollars (\$54,000,000), to be exact.

Councilmember Yukimura: Good for you. Okay. Great. Thank you. Then, I noticed that we are going to pay all of lender's cost of monitoring the project. I am just curious what kind of ballpark figure that is.

Ms. Fu: Point two five percent (0.25%) administrative fee of the remaining balance on the loan.

Councilmember Yukimura: Is that the monitoring cost?

Ms. Fu: It is all-inclusive.

Councilmember Yukimura: Okay. Alright. Thank you very much.

Council Chair Rapozo: Thank you. Are there any other questions?
Go ahead, Councilmember Kagawa.

Councilmember Kagawa: I have a question for Mr. Hirai since he is here. I am just curious, is HHFDC helping some of these new affordable housings in Honolulu like the big apartments around Ala Moana or Kaka'ako? Are they participating with some of those as far as funding?

Mr. Hirai: I am trying to...

Councilmember Kagawa: Or are they just market ones that have affordable restrictions that do not participate with HHFDC?

Mr. Hirai: Some of the rentals we are participating with General Excise (GE) tax exemptions.

Councilmember Kagawa: Okay.

Mr. Hirai: But they are at a one hundred percent (100%) AMI affordability level.

Councilmember Kagawa: Alright. Thank you.

Council Chair Rapozo: Are there any other questions? I just have one (1) question, and it is for you Craig. As far as the permanent affordability restriction, does that affect the mortgage in any way?

Mr. Hirai: Our mortgage or the buyer's mortgage?

Council Chair Rapozo: No, yours.

Mr. Hirai: No.

Council Chair Rapozo: Not the all?

Mr. Hirai: No.

Council Chair Rapozo: Thank you. Are there any other questions? If not, thank you very much.

Ms. Fu: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify?

ALLISON S. ARAKAKI, Council Services Assistant: We have one (1) registered speaker, Anne Punohu.

Council Chair Rapozo: Anne. Thank you for your patience, Anne.

ANNE PUNOHU: *Aloha* everyone. I am here to speak in full support of this project and most importantly, you have never heard this out of my mouth in a long time, I have been over twenty (20) years in this Council just on housing issues and being a housing advocate over all of these decades. I am going to be real honest, I have not always had a good relationship with the Housing Agency. I have not always agreed with the Housing Agency. I am going to say that since Kanani took the reins, I love Kanani. I trust her and she is honest. She is going to hate me back there, but that is okay. I do not care. She someone that I believe. I also know that Kanani is from here, she is one of us, and she is for people like me, too. How rare can I say that about anyone that comes up in front of you folks? That is why I always get to this chair and fight. I fight about median incomes and these developments. This is not one to fight about. This is a no-brainer. This is the one (1) time I can get up here and say, "This is a great development. It is mixed with all kinds of people in it. It is for everyone, for me, too, if I wanted to," but I do not like 'Ele'ele. I like the other side. I have to say that this is not a project that we should be questioning right now. We should be very grateful. The County has the reins right now and she is pulling this off. She is brilliant, intelligent, knows what she is doing, sharp, and I have full confidence. It took over three (3) Administrations to try to get this done. Three (3). Mayor Baptiste was a friend of mine. I am so happy to see it is coming to fruition and if it is going to come under anyone's command, I am glad it is coming out of Kanani's command. I know that moneys will be appropriated properly, I know this will get built, and I know the right people, the people that I want to see get in there, will get in there. On the perpetuity part, you know that I am all for that. I am going to be testifying on that coming up. But, it is a no-brainer. When it says it has to be affordable, of course it is in perpetuity. That should not be something that anyone should worry about. As far as loans, whatever, or how long it is going to take, she is working a lot faster than a lot of these developments I have seen. We have had developers come here and take thirty (30) to forty (40) years to build out their housing. Kanani is getting it done in "whip-snap" time. Let us get her the funding, give her a break, let her do her thing, and let us let this be a—I would like to see this be the standard for all projects that have this kind of thing in the future that they have to accommodate workforce. Workforce should be for the people that actually work on this island who work hard and do not make a lot. They should be able to live. I am all for it. Thank you. *Mahalo*.

Council Chair Rapozo: Thank you very much. Anyone else wishing to testify? See none, I will call the meeting back to order.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there further discussion? Councilmember Kagawa.

Councilmember Kagawa: I am in full support. I want to thank the Housing Agency and HHFDC for helping with the financing. Growing up on west side, I went to 'Ele'ele Elementary School, so I have been fortunate to know the impacts of Cliffside affordable of 'Ele'ele Nani Phase I, Phase II, Phase III, or whatever. I have seen those projects come a long time ago and actually, when the

house prices were much more reasonable than they are now. But as a whole, they continued, even those that have been resold back after the buyback period ended. They have remained in the hands local people as a whole. If you look at the Cliffside subdivision and take a drive house-to-house, 'Ele'ele Nani as well, there are local families throughout. I think that is why I put my support back when we are before the Land Use Commission because the actual results when you go to those, are all locals. It is exactly what we are trying to cure, housing for local families. Now, are there some concerns that I have? Yes, I do have some and some of them have been brought by residents like, how are these guys going to get across the highway? People fly the down the highway. It is dangerous. If you look at the overpass that State did by 'Ele'ele, they did an overpass there from that subdivision connecting 'Ele'ele Elementary School and those residents across to the shopping center. Should the State think about some of those? Do we want our main highway to be like Pali Highway where you have frequent accidents? We do not have the millions that Honolulu does, but yet, would a safe overpass walkway be something nice? Of course it would be. There are things that we can consider. There are some issues. Is it a perfect location? No, but are there other options? Not really.

(Councilmember Kawakami was noted as present.)

Councilmember Kagawa: Not really. Besides that area, where else in the 'Ele'ele, Hanapēpē area? It is a cliff. It is a valley. There is no more room to extend 'Ele'ele Nani. Cliffside, yes there are possibilities to go more *mauka*, but do we have ownership of these lands? Lima Ola is there. It is ripe. Have the results in past proven to be a good thing for the local community? Absolutely. I think this Council can really serve the local people by being one hundred percent (100%) behind Kanani and the Housing Agency in making sure that the end product is something truly affordable, not four hundred fifty thousand dollars (\$450,000) or four hundred eighty thousand dollars (\$480,000). I think that is really back at the market price. At the end of the day, two (2) or three (3) years when they announce the price, I think that what we will see whether it will be, again, another successful project on the west side. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Brun.

Councilmember Brun: Thank you HHFDC, Kanani, and the Housing Agency. For us on the west side, this is something big. We all feel left out there and we are still suffering from Hurricane 'Iniki and whatnot. This is a big project for us. We are excited. The only complaints I got was more of people that are set in life that do not have kids, have their house and do not need an affordable house. But all of the local young families that go to youth sports events, they are all for this. They want to stay on the west side, want something cheap, it is affordable, and they have kids. We will find a way to get the kids across safely. This is a big thing for the west side and I am glad this going through. I know some of the dates, why we could not stick to dates because we had all kinds of pushbacks and the dates got pushed back really far, so we could not meet dates. I know Koa asked about a date and that came and went, but we had so much pushback when we went to the State Land use Commission. It took time. I am glad that this is finally going through. For us on the

west side, this is really big. Councilmember Kagawa comes from there, I still live there, and I am so glad this is moving forward. I cannot wait until we finally break ground and get some housing out there for the local people on the west side. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Yukimura

Councilmember Yukimura: Yes. Thank you. I have always supported the first phase of this housing project. I just cannot see or support five hundred (500) homes there. It has been said that there are no options, in fact, during the West Kaua'i Workshops, I learned that the Department of Hawaiian Homes is looking actively at developing their sites along Moi Road in Hanapēpē and that will not need to develop water or sewer. It is already there. There could easily be, because we are building sidewalks along Moi Road down from Hanapēpē Heights to the town, and if we are conscious about what is going through the town, I already met a young man from 'Ele'ele Elementary School who was walking home the other day through the town. There is actually a safe route to school from Hanapēpē Heights to 'Ele'ele Elementary School without crossing the main highway. Then, Habitat for Humanity is building homes in Waimea around the technology center, which is going to be fabulous. They do not have to build more roads, water, or sewer and the kids can just walk to the middle school and high school there. There is housing that is being built and I think it is going to be wonderful on the west side to have the housing in Waimea and also in Hanapēpē. These one hundred (100) units in the first phase, I think, will also be good for the community, so I will be voting to approve this loan.

Council Chair Rapozo:
Councilmember Kawakami.

Thank you. Are there any other comments?

Councilmember Kawakami: Thank you. I would like to thank Craig again, HHFDC, their Board, and our Housing Agency. This is going to be a great housing opportunity for the people of Kaua'i and for West Kaua'i. When we are talking about an aging population, we are not just speaking about housing. We are talking about keeping families together. When I ask my young friends out there who do not have a home where they want to live, they want to be like me. They want to live next their mom and dad so that their parents can watch over the grandkids, and that is the way that we are going to have live and grow as Kaua'i. We do not have the facilities for our aging population, so we are dependent on families being able to be kept together. Five hundred (500) homes for the west side for our people on Kaua'i is a great thing. I think it is a great opportunity to collaborate, take a look at where we can create job opportunities, and to diversify our economy on the west side so that "live, work, play" smart growth community can really be an asset for West Kaua'i. I look forward to seeing this project come off of the ground. It is going to house many young, local family and it is going to keep our kids here on Kaua'i. We have a housing issue and to ignore it is something that we cannot do further and this addresses it head-on. Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Thank you. Councilmember Kaneshiro.

Councilmember Kaneshiro: I just want to say that I am in full support of this. It will be a great project on the west side. I hear from a lot of people that ask about the Habitat for Humanity houses and I am sure there is a huge waiting list because I had a ton of people asking me, "How do I get in? We have the money, but I think they have a certain process that they have to go through." It is a very limited amount of homes that they have. I think we are going to find that there are a lot of people that are desperate and in need and will definitely want to be in these homes. I think it is a great project. We are in a horrible housing situation now. Any housing we can put on the island right now, I think is a good thing because housing prices are astronomical and there is no supply anywhere. This will be a good thing for the west side.

Council Chair Rapozo: Anyone else? Councilmember Chock.

Councilmember Chock: Just thank you, again. I really appreciate the partnership between the agencies and of course I have supported this project and will continue to. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to say though, we will have to plan to handle the traffic and we all know it is already really bad. So, just to highlight that is going to be something we are going to have to address.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: I would like to put it also in perspective that we need nine thousand (9,000) housing units. To be able to put a roof over our local families' heads, our need is going to be nine thousand (9,000) units, just so the public at-large understands what we need. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Traffic is bad all over the island, so are we not going to build anymore in Kapa'a or Līhu'e? We have to address traffic over the whole island. There is always a negative to everything and traffic is bad on the whole island. Just because we have traffic does not mean we are not going to build in 'Ele'ele. It is just too much, too much negative.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Where we put our housing does affect traffic, and so we would do well to put housing where the jobs are, and it does not mean no housing on the west side at all. Look at the housing that is going to come up at the technology center, around the technology center, and in Hanapēpē Heights, as well as these one hundred (100) units. But to the extent that are people who live and work in Kapa'a and now are buying a house because the only place to buy an affordable house is on the west side, that is going to cause a lot more traffic than is necessary.

Council Chair Rapozo: Okay. I am going to, first of all, thank Housing and HHFDC. I can remember back in my first term, I believe it was Councilmember Furfaro and myself, both first termers, and we did a Resolution to Mayor Baptiste, at the time, to bank land. We have to start banking land. Back then, we had funds so we put five million dollars (\$5,000,000), I believe, in the budget for land purchase. Then, I have to thank Tom Shigemoto from A&B who negotiated this deal with Brian, I guess, in the Administration at the time, and we acquired the land. It has been fifteen (15) years or so, I think, for this to happen. It is a great day for me personally, because at least I get to see that before I leave this Council, that this thing is actually going to happen. I am so excited about that. We have to remember that there are a lot of people on the west side that are looking for homes. A lot of working families on the west side that work on the base, that work in Po'ipū, Waimea, or Kekaha. The traffic is there. We are just going to give them an opportunity to move to 'Ele'ele. I have to agree with Councilmember Brun that we cannot—what is more of a priority right now, the inconvenience of sitting in traffic or someone without a home? We have to weigh our priorities and right now, we have a huge opportunity to put people in homes. I am talking about eighty percent (80%) or one hundred percent (100%) of area median income where you do not see that and you are not going to see that in a while. I think we have to realize that west side people have the right to purchasing affordable homes just as much as the people in Kapa'a, Līhu'e, Kōloa, and everywhere else. I do not think there is a shortage of buyers on the west side that is not going to take advantage of this parcel and project. I am just happy that it is moving. I am happy that it is going to happen. A lot of people are going to benefit from this that are currently on the west side. I think people want to stay on the west side and I believe it is going to be a nice project, complete with all the amenities, I think. While I agree that the highway crossing is going to be something that has to be worked on, to me, that can be worked on later. I think whether it is an overpass or a tunnel, I do not care what it is. But right now, let us get those things built, get the people in the homes, and let us just do it. I am excited. The motion is to approve.

The motion to approve C 2018-235 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Thank you very much, next item, please.

CLAIM:

C 2018-236 Communication (10/03/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Lisa Bargayo-Camalliri, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kagawa moved to refer C 2018-236 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there any public testimony or discussion?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2018-236 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2018-10) submitted by the Planning Committee, recommending that the following be Received for the Record:

“Bill No. 2719 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AGRICULTURE DISTRICTS (ZA-2014-4) (*County of Kaua'i Planning Department, Applicant*),”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

ECONOMIC DEVELOPMENT & INTERGOVERNMENTAL RELATIONS COMMITTEE:

A report (No. CR-EDIR 2018-04) submitted by the Economic Development & Intergovernmental Relations Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2720 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SUNSHINE MARKETS,”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2018-05) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Bill No. 2722 – A BILL FOR AN ORDINANCE AUTHORIZING THE PROCUREMENT OF THE SERVICES OF A CONTRACT AUDITOR AND APPROVING A CONTRACT FOR A CONTRACT AUDITOR FROM APPROPRIATIONS OF A LATER FISCAL YEAR FOR MORE THAN ONE FISCAL YEAR,”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2723) – A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-1.1 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX: Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2723) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 14, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Any—go ahead, Councilmember Kagawa.

Councilmember Kagawa: I just want to really thank Wally Rezentes, Jr., Managing Director, for hearing my concern and really taking it to the next level and trying to fix the problem that he agreed with me. Actually, if I want to be honest, I think Finance kind of frowns upon doing these types of changes because for them there is a process in place and when you tend to bend the rules or what have you from the normal process, it does become subjective as to when the bending is going to end. There is a process in place, the signature has been made, and you have the exemption. But I think in this case, Wally agreed that in the case of death, a lot of times that is the last thing people are thinking of like, "Oh, do I have the exemption paper changed?" So, you are looking at the death certificate for your tax returns and I just want to thank Finance. In that case, they were flexible enough to say, "Hey, do you know what? It is important enough. This may mean a difference of one thousand five hundred dollars (\$1,500) on a five hundred thousand dollar (\$500,000) house." They concurred that though the amount may not fit the total change that is needed to be done just in the amount of fairness because we want to make sure that the Homestead tax rate is provided and taken advantage of by our residents. We want to have our residents have the lowest tax rates on their house that they live in. I just want to again, thank Wally and the Department of Finance for agreeing with me that in the case of death, we want to amend if we have to because it is not a nice thing to tax people on death. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I want to thank Councilmember Kagawa for introducing this Bill and bringing the problem to everyone's attention. I want to thank Finance for addressing the problem, both by this Bill and by looking at the forms so that even the retroactive claim can be made unnecessary. Thank you.

Council Chair Rapozo: Anyone else? Seeing none, anyone in the audience wishing to testify?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The motion is to approve on first reading and set a public hearing for November 14th, roll call.

The motion for adoption of Proposed Draft Bill (No. 2723) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 14, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:

Brun, Chock, Kagawa, Kaneshiro,
Kawakami, Yukimura, Rapozo

TOTAL – 7,

AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. Next item, please.

Proposed Draft Bill (No. 2724) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 15, ARTICLE 4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO OUTDOOR SIGNS: Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2724) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 14, 2018, and referred to the Public Works / Parks & Recreation Committee, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I do not have to get into the details now, but it is kind of self-explanatory as far as what this Bill is related to. I understand that the Planning Department needs to enforce the signs and the complaints on signs, and it got switched over to the Building Division now. I do not know if the Building Division has added a person to look at the complaints on signs or whether they are just doing it in-house with the staff that they have. I am glad that we have this Bill to at least clean up some of it because they get a lot of complaints. For this one, it is for nonprofit organizations to post temporary signs relating to upcoming events, and I have no problems with those. In some cases, I have some issues sometimes with constituents calling me and saying that the Planning Department went out and told them to take down their sign when it is a small business trying to promote people. Then when I look at the sign, it does not look like it is offensive to me as a taxpayer that the sign is there, but then again, you do not like to micromanage from this point. I guess the Sign Ordinance is black and white, but sometimes you have to scratch your head. It is like, these local businesses are just trying to draw customers to come patronize their business and then you have people calling them out. I feel kind of bad for the Building Division that they now have to take on this task because really, enforcing signs is a big task because it is based on complaints that you have. You have some people that really are black and white that are not sympathetic, but then you have some signs that are really ridiculous as well. In some cases, I think Leo has a tough job. I am glad that she is having this Bill for the nonprofits because I think we have to be sympathetic to nonprofits to allow to get their message out and not to be worried if they doing a bad thing for the community when it is only temporarily up in order to serve the community good. Thank you, Council Chair Rapozo.

Council Chair Rapozo: This Bill is not coming from them. This is a Bill that I have introduced because I get sick and tired of driving through the towns and seeing all these banners and signs for businesses or business events, big pictures of alcoholic beverages with no permit, and nothing gets done. It is complaint-driven, so no one complains and no one gets a ticket. I think Public Works will be coming up because they are okay with the no fee, but they still want these nonprofits to go through a permitting process. It says because “if non-profit organizational signs were

exempt, we would have no record or knowledge of the signs being posted unless visually observed by or inspectors receive a complaint.” Absolutely. When they see it, they will see the date of the event, see it is a nonprofit, and keep on driving. They are not doing anything about the signs in Kapa’a Town and Hanapēpē, everywhere. I agree with you, Councilmember Kagawa. Do you know what? If these signs are there to help a small business thrive, by all means, but they need to get a permit. It is not about the fee. It is about the hassle of these people having to go down and get a permit for a nonprofit event? In the last couple of months, I have complaints from the nonprofits saying, “Do you know how tough it is? You have to come down here, get a permit, pay,” and they just want to do the event. By the time they go through the process, the event is over. We have exempt politician signs. All of us. We put up our signs and banners everywhere and do not need permits. Real estate, they are out there selling houses and making money. They are exempt from this permit. They do not need a permit. I am just asking for the nonprofits to give them the same courtesy. You are going to do an event for the Boys & Girls Club, Youth Men’s Christian Association (YMCA), or Youth Women’s Christian Association (YWCA) and I have—the Bill is clear. No longer than ten (10) days before the event and it has to be removed no later than the day after. We allow businesses to do it. Trust me, I have made complaints. We have gotten complaints from the public about some very offensive signs. I am just saying that the nonprofits are there, not making money, and are providing an event for the community, then by all means, they should be treated the same as any stinking politician or real estate developer or real estate salesman.

Councilmember Kagawa: Are you flexible to perhaps extend that ten (10) days, or did you get ten (10) days from...

Council Chair Rapozo: No. I thought that was reasonable. I see they do not have a problem with ten (10) days. Their issue is they want it permitted because they want to know it is there. Well, they are going to know it is there when the inspector drives past or they are going to know it is there when the complaint is filed. I do not see why we are going to have the nonprofit go through the rigmarole of getting a permit when it is for a one-time event that is going to benefit the community or organization.

Councilmember Kagawa: Again, I have trouble with having that length of time. I would just like to see it exempt because I am thinking, do we want the County tracking the date of every nonprofit event and the date that the sign actually went up to know whether it was posted ten (10) days before the event? I think we have enough work in the Building Division. I do not want to create more work that we cannot do. Of course I like your Bill. I like that we are exempting it because we probably do not do a good job now anyway of monitoring what has a permit or what does not, so I guess it is a tough cookie and we have time.

Council Chair Rapozo: Are you suggesting we take away the ten (10) days or longer than ten (10) days? I am flexible with anything. I am just saying...

Councilmember Kagawa: I think longer than ten (10) days.

Council Chair Rapozo: It is not going to be enforced. Again, it does not get enforced now.

Councilmember Kagawa: That is true.

Council Chair Rapozo: I am just trying to say that these nonprofits should be treated the same as the politicians.

Councilmember Kagawa: Exactly.

Council Chair Rapozo: My God. Why?

Councilmember Kagawa: I agree one hundred twenty percent (120%).

Council Chair Rapozo: It makes no sense when someone says, "Take down your sign because you do not have a permit." Really? For an event that is going to benefit the community or benefit a community organization? That makes no sense. Yet, all of the business signs throughout this island, littered, no one says anything. That is all I am suggesting, and it is for a nonprofit. The definition of "nonprofit" is very clear in the Bill.

Councilmember Kagawa: My second question that I want ready for Committee is, Planning has someone assigned for enforcing the sign, did that person now go over to the Building Division, or is...

Councilmember Yukimura: Why do we not ask them?

Council Chair Rapozo: I am assuming they are going to be coming up.

Councilmember Kagawa: Or is that person going to remain in Planning and not have that job anymore, and then the Building Division has to go pick up that job, just like we moved maintenance of parks facilities from the Building Division, which has been there ever since existence, moved to the Department of Parks & Recreation. I have the same concerns. Is the manpower going over?

Council Chair Rapozo: Well, if anything, this lessens the burden on the Department. It lessens it. It lessens the burden.

Councilmember Kagawa: But I mean, we were probably not doing a good job anyway and if we are doing a good job in Planning, why would they move it in the first place? I just have concerns going forward, making sure the Building Division has the necessary personnel so that if we do legislation, that we are not just putting words, but we actually can do it because I think it looks ridiculous if we put in words that we do not even enforce anyway.

Council Chair Rapozo: Well, that is true.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Only because I have been approached in the last two (2) months by two (2) different nonprofits that had a problem trying to get a permit for a banner, and what do you think they are saying? What about all of these other people that have banners all over the place? Is it better to not ask and just put? No. Let us just exempt the nonprofits. I think that is the best way.

Councilmember Kagawa: Yes, good idea.

Council Chair Rapozo: Councilmember Yukimura and then Councilmember Kawakami.

Councilmember Yukimura: Yes, Council Chair Rapozo, your Bill seems very reasonable, but I would like to hear from the Building Division. I think it is good like we did on the claims bill that Councilmember Kagawa introduced, that we just have them, on first reading, explain their position and their concerns.

(Councilmember Brun was noted as not present.)

Council Chair Rapozo: I am planning on bringing them up. I am just asking for initial discussion. Councilmember Kawakami.

Councilmember Kawakami: I think the difference is and my only concern is for political signs, it is very clear that we are not allowed to be in any public right-of-way, to obstruct any road or public sidewalk, and there are size limitations. My only concern would be, does this apply to the nonprofits as well? Do we put size limitations on their banners? The devil is going to be in the details. We can have Public Works come up and maybe address some of that because if it is just giving them the exemption, even if it is a nonprofit, just to put it in any public property or to allow them to obstruct sidewalks and right-of-ways, there are going to be unintended consequences. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. With that, I will suspend the rules and Public Works.

There being no objections, the rules were suspended.

Mr. Tabata: Good morning, Council Chair Rapozo and Members of the Council. Lyle Tabata, Acting County Engineer. Let me take a couple of steps back first. Councilmember Kagawa, we have not had people transferred to us along with the duties. But previously, we have attended Council Meetings and was asked of the enforcement of the Sign Ordinance and we have taken steps. I apologize for our communication just getting to you this morning. Leo had been working on it from last week when we got the notice that this was going to be an agenda item. We recently updated our Standard Operating Procedure (SOP), our policy, for the Outdoor Sign Policy. Working with the Department of Parks & Recreation, because a lot of the issues of calls for violation stem from temporary signs or banners being placed on Parks properties. We created this process working closely with the Department of Parks & Recreation, that we have a permit now, a sticker, which on the last back page, that we have posted on signs with the date, the permit

number, and approved dates of the duration of when the sign will be up. We rely on the Parks Rangers to help us to monitor this and especially, the most visible location I know is Kapa'a Beach Park.

(Councilmember Chock was noted as not present.)

Mr. Tabata: They have been monitoring the dates and this is actually, their idea to put this sticker. We worked collaboratively. It is one of the things that I am proud of that we can work within Departments in the County and we created this process. Part of what we are asking for is, we would definitely allow waiving of fees, but we still would like the nonprofits to come in and apply so that we can follow through on this process that we established. We feel it is the first step that we have all taken to get a grip of the situation and put our arms around this—how do you eat an elephant? One (1) bite at a time. So put our arms around this elephant and try to tackle it and try to deal with all of the unpermitted signs that are out there.

(Councilmember Chock was noted as present.)

Mr. Tabata: And yes, Council Chair Rapozo, it is very true that we rely on people turning the offenders in and then we send our people out to do their inspections during the work day to stop by and investigate. We are also trying to improve—I just signed an approval this morning for us to get our notepads that our inspectors will be able to take with them into the field so that they can document everything right then and there and send the information back to the Office, versus they go out, have to do everything manually, come back, and fill in the manual form. It should speed up the process. We just ask for a little bit more time for us to really get our snowball rolling and get larger and larger so that you do not get the calls anymore saying that we are not doing anything about the situation.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. Thank you, Lyle. I have a couple of questions. Walk me through the permit process and can we apply for a permit on line? If so or if not, why not?

Mr. Tabata:

I will defer that to Leo. Leolynne, go ahead.

LEOLYNNE ESCALONA, Supervising Building Inspector: Good morning, Council Chair Rapozo and Members of the Council. Leolynne Escalona, Code Enforcement Officer. At this point, we do not have that capability of having applications online. We are taking our first step in preparing a building permit application that we will post on our website. But as far as other permit applications at this point, people need to come into the Building Division Office and pick up their application. They can either fill it at the counter or take it with them and drop it back off for processing.

Councilmember Kawakami: Is it a lengthy process? It can be done, say, what in a matter of ten (10) minutes, or is it longer?

(Councilmember Brun was noted as present.)

Ms. Escalona: Well typically, they fill out the application and it has to be approached by the Building Inspector that is assigned to that area. So, they might get it the next day or the day after.

Councilmember Kawakami: So, it is usually in the course of...would it be safe it say within two (2) to three (3) working days?

Ms. Escalona: Yes.

Councilmember Kawakami: That they get the permit?

Ms. Escalona: Yes.

Councilmember Kawakami: Now when we are doing enforcing, do we have the ability to just take these unpermitted signs down and hold them somewhere for a period of time? Does the State Department of Transportation not do that to political signs?

Mr. Tabata: If they encroach, yes.

Councilmember Kawakami: Do we have the ability to say, if we are out there and there is a Park Ranger and there is no sticker on it, then it is coming down?

Ms. Escalona: The Park Ranger can take it down because it belongs to the County if it is on County property. For our Building Inspectors, if an unpermitted sign is on personal property, we do not have the authorization to remove it.

Councilmember Kawakami: So if it is on personal property, then do we issue them a letter and then a citation?

Ms. Escalona: A citation.

Mr. Tabata: Yes.

Ms. Escalona: Or we have the Building Inspector attempt to contact the owner and advise them that they have an unpermitted sign.

Councilmember Kawakami: On public property, on County property. Do we have the ability to take it down if it is on State property?

Ms. Escalona: No, we do not.

Councilmember Kawakami: Okay. On our County properties under our jurisdiction, we do have the ability to take them down. Do you know if that is customary practice right now? Are we taking them down?

Ms. Escalona: Yes.

Councilmember Kawakami: Good.

Mr. Tabata: For State properties, normally they push it up to me and if it is State Highways, I call Mr. Dill.

Councilmember Kawakami: Okay. For political candidates, our signs are restricted to being on private property out of the right-of-way and not obstructing, I guess, public sidewalks. Do you folks suggest that language be in here so at least there is some sort of ability for us to manage this?

Mr. Tabata: It is in our Sign Ordinance.

Councilmember Kawakami: It is?

Mr. Tabata: Yes.

Ms. Escalona: Yes.

Councilmember Kawakami: No, but for the nonprofits, this new section?

Ms. Escalona: Well if we, for instance, do not require a permit, they are still limited to the restrictions that we have in place for any sign.

Councilmember Kawakami: Good. We ultimately, want to have nonprofits be able to advertise their event because they are nonprofits, but we just have to be aware of the slippery slope and where that leads to as well. Thank you. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Lyle and Leo, thank you for being here. Do you feel like...when was the date that Planning transferred the job to you folks?

Mr. Tabata: It was way before my time.

Ms. Escalona: More than ten (10) years.

Councilmember Kagawa: I thought the enforcement of signs was just recently transferred.

Mr. Tabata: No.

Ms. Escalona: No.

Councilmember Kagawa: It was transferred a while ago?

Ms. Escalona: Yes.

Councilmember Kagawa: Okay. Hello.

Council Chair Rapozo: Are there any other questions? If not, thank you very much.

Mr. Tabata: Thank you.

Ms. Escalona: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? Seeing none, I will call the meeting back to order.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any further discussion? Go ahead, Councilmember Kagawa.

Councilmember Kagawa: Thank you, Council Chair Rapozo. Again, like my previous one on the real property tax exemption, you got a couple of complaints and came up with a solution. I want to thank you for that because certainly, you want to have a process where it is clear that there is a process to help and fix reasonable solutions to problems that are brought up by our constituents. Thank you.

Council Chair Rapozo: Thank you. Is there any other discussion? For the life of me, I have always wondered why in the world the Building Division is tasked with a sign ordinance. It is just something that baffles me, and I know it is not your fault. That just is not the place for a sign ordinance. It makes no sense. But for me, I get frustrated when we allow so many for-profit entities, you see it. My God, everyone sees it. Kapa'a, on the County fence line, is littered with banners for events. It is all over. I am troubled when we have a nonprofit that is trying to comply and then you get an event on the west side, and I will be honest with you, it was the suicide walk. The lady was...you are going to come all the way into Līhu'e to go and do an application, then you are obviously going to have to do it here in Līhu'e because do not want to go all the way to Kekaha or Waimea and then come all the way back to drop it off, and then pay twenty dollars (\$20) or whatever it was. I do not think it is the fee. I do not think it is the cost that is a problem. It is just the hassle of getting a permit, when on the way driving to come get your permit legally, you see all of the illegal signs and banners. I just think this makes sense. It helps these organizations promote their event so they can get more participation from the community. It does not hurt anyone. Hopefully, we will be able to discuss this in the Committee further. Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I do appreciate the intent. We all want to help nonprofits, but like I said, the unintended consequences. I do think that the solution would be to make getting the permit done online where it is convenient. I think the fact that you have someone that needs to drive in just to get a permit for a temporary sign, ten (10) days prior to an event that has to be taken down one (1) day after, is contributing to traffic. I think if you make things convenient and bring County government services into their living rooms, then that would be the solution because we do need to have the Building Division be able

to keep an eye on what is legitimate and what is not. Then, the message that we are sending that “okay, nonprofits, you are exempt,” then what is next groups and what is the message that is being said out there? Is it that if they see someone putting out a sign, “Oh, if it is okay for them, then it is okay for me,” and then it becomes a snowball effect. I do think that this is a great intent, but I would like to see the permitting process be more convenient especially for something like this, especially for something just as simple as a temporary sign. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. I would argue that exemption exists for real estate and politicians. If they can do it, we can, too. It goes the same way. Real estate people, I think they can afford twenty dollars (\$20) and I think they can afford to get a permit. I understand it is convenient, but I just do not see the difference or the rationale to exclude nonprofits from for-profits.

Councilmember Kawakami: And I am not saying that. I think they should be exempt from fees, but let us talk about another issue since it was brought up. I do think that maybe real estate agents should have a permit, too. If that is the logic that just because they are allowed to, take a look at the amount of real estate signs that are out there, but they are on private property, right? Perhaps we should have the conversation, do they need a permit? I know realtors right now are watching and their hair standing on the back of their necks, but we are trying to preserve our rural character. We are trying to preserve how Kaua'i looks like. We have a Sign Ordinance that prohibits billboards for a reason. While we are talking with what is right and wrong, just to say because realtors or political candidates are allowed, everyone else should be allowed, I do not think is the logic that we should be going down. Thank you.

Council Chair Rapozo: The motion is to approve and set a public hearing on November 14th. Roll call.

The motion for passage of Proposed Draft Bill (No. 2724) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 14, 2018, and referred to the Public Works / Parks & Recreation Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro,	
	Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

Proposed Draft Bill (No. 2725) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AFFORDABLE HOUSING PRESERVATION: Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2725) on first reading, that it be ordered to print,

that a public hearing thereon be scheduled for November 14, 2018, and referred to the Community Assistance & Veterans Services Committee, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Do you have an amendment?

Councilmember Yukimura: Yes, please.

Council Chair Rapozo: Why do not you go ahead and introduce the amendment?

Councilmember Yukimura: Thank you. It is a technical amendment, which just makes the Bill internally consistent so the terminology is all the same.

Council Chair Rapozo: Do you want to make a motion?

Councilmember Yukimura moved to amend Proposed Draft Bill (No. 2725), as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Does anyone have any discussion on the amendment? Is there anyone in the audience wishing to testify on the amendment?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: It is technical changing "permanent" to "long-term" and "permanently affordable" to "long-term affordable." It is pretty much just a housekeeping amendment.

Councilmember Yukimura: Yes.

Council Chair Rapozo: This on the amendment, now, not the Bill. This is just on the technical amendment. Yes, we will go back to the main motion, which is the main Bill. Go ahead.

Councilmember Kaneshiro: I think I was looking for the amendment because we defined "long-term affordability" but then never used it in any of the rest of the documents, so I had a question on that earlier, but this resolves that.

Council Chair Rapozo: Okay.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: With that, the motion is to amend, as circulated.

The motion to amend Proposed Draft Bill (No. 2725), as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and unanimously carried.

Council Chair Rapozo: Okay. Now, we are back to the main motion, which is the amended Bill.

Councilmember Yukimura: Could I just say a few words?

Council Chair Rapozo: Please.

Councilmember Yukimura: Thank you. As evident today on previous discussions, we are all struggling with the issue of affordable housing. I think Councilmember Kawakami mentioned the General Plan units, nine thousand (9,000) units in the next twenty (20) years, are what we need. Councilmember Kaneshiro called it a "horrible housing situation," which we all agree with. We know, too, there is not a silver-bullet, not just one (1) thing is going to solve this problem, but several things need to be in place. This Bill, which is being co-introduced by Council Chair Rapozo and myself, is offering to put in place one (1) critical part of the solution. This Bill relates to affordable housing preservation and establishes a County policy that requires that any affordable housing built with taxpayer moneys and any affordable housing built as a requirement of zoning or planning be affordable for the longest period possible under the law. The need for such policy is made clear by the example of Courtyard at Waipouli, which is an affordable housing project that was required as a condition of rezoning, for seven hundred fifty (750) luxury condominiums units at Kaua'i Lagoons, now known as Hōkūala. The Courtyard at Waipouli is located in an ideal place for affordable housing. It is on the main highway next to Kintaro Restaurant, it is close to jobs and other services, and it is on a bus route. Residents living in the affordable housing units pay no more than thirty percent (30%) of their household income for rent. But in less than a year, the affordability requirement expires. That means that the owner will be able to rent or sell those units for residence or vacation rentals at market prices, which means that forty-one (41) families will have to leave and find another place to live. The question is, where will they go? This kind of unjust and undesirable outcome can be prevented in the future if we pass this Bill. If we want to solve the affordable housing problem, we must preserve the affordability of our affordable homes, otherwise, we will never be able to address the affordable housing problem on Kaua'i, which requires an ever-expanding inventory of affordable homes. We cannot become negative or minus affordable homes, which is what is going to happen when the affordable housing provision expires. It is about our children and grandchildren being able to afford houses here on Kaua'i so they are able to live here. With this policy in place, we can stop the bleeding and move forward with an ever-expanding inventory of affordable homes.

Council Chair Rapozo: Thank you. It is already happening. I think if you take one (1) affordable housing unit when it gets sold to the market, you lose one (1) unit of affordability or affordable and you increase the market inventory by one (1). It is really a difference of two (2), the net loss to the County and you keep doing that every time you sell off an affordable housing unit, that is why we are in

the hole today and we are trying to pull ourselves out of the hole. Councilmember Kagawa.

Councilmember Kagawa: I have a question for Councilmember Yukimura. Looking back in hindsight, was the Courtyard at Waipouli a really bad deal that we did to approve that?

Councilmember Yukimura: It was very important. We have to require...those coastal luxury units at Kaua'i Lagoons, or Hōkūala, they are permanently...

Councilmember Kagawa: Resort?

Councilmember Yukimura: ...vacation rentals or high-end housing. A developer that gets the privilege to build those units needs to provide a certain percentage of affordable housing. I think in that case, it was about ten percent (10%). It should have been that both the luxury units and the affordable units should be forever. That is the way that it would be just. Why is it only for certain number of years? I was there when we did it and tried to get it to be permanently affordable. Actually, the proposal was that we would accept twenty-five thousand dollars (\$25,000) per unit as adequate compensation for their housing requirement and actually, Council Chair Rapozo and I stopped that and said, "No, it is really two hundred fifty thousand dollars (\$250,000)." That is how much it took, at that time, to build an affordable unit. The developer, at that point said, "Well, I can build it for cheaper," and that is why we allowed him to build it instead of paying us two hundred fifty thousand dollars (\$250,000) per unit.

Councilmember Kagawa: So we thought it was good, but it was only good for a short-term?

Councilmember Yukimura: That is correct and there are other projects. Kīlauea Estates in Kīlauea went to all of the right people; policemen, mechanics, and single moms for two hundred thousand dollars (\$200,000) or somewhere around there. Now, it can be sold for five hundred fifty thousand dollars (\$550,000) to six hundred thousand dollars (\$600,000) after ten (10) years of affordability. It was both a zoning provision as well as some County money, I believe, that built those units. Kolopua was going to be that way and even Koa'e. Those were negotiated individually, but it would be much better to have an across-the-board policy.

Council Chair Rapozo: Councilmember Kaneshiro and then Councilmember Chock.

Councilmember Kaneshiro: This is me thinking out loud, I do not want to talk about the Waipouli project because I was not here. I think the problem would be, would the developer still develop it if it was required to be permanent? I think right now looking at our housing situation, we have inclusionary zoning and we have no one building housing. So, to make the affordable housing now permanently affordable is not going to get us anymore housing units than we have now because no one is building. I do not know. For us, I think we should be trying to get people

incentivized to build houses so that we have supply. Right now, we have had the inclusionary housing for a long time and there has not been very many projects that have come on-line at all. I think that is why we are in the housing situation we are at. I guess I am not sure if it is permanent affordability is going to hurt, hinder, or encourage more housing.

Councilmember Yukimura: May I respond to that?

Council Chair Rapozo: Hang on. Is it specific to that?

Councilmember Yukimura: Yes.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: It is not true that we are not building any housing. Koa'e is one hundred thirty-four (134) units in Po'ipū that is going to be permanently affordable because we negotiated that, is an inclusionary zoning requirement. It was done before the existing bill was put in place, but still, if you look at the history of affordable housing over last four (4) years, a good number of them, in fact, Grove Farm provided affordable housing. That is why we have affordable housing today and the fact—just one (1) more thing. The fact that there has been no building up to now is a large part because of the big crash that came in 2008, which was about the same time that we adopted the existing Inclusionary Zoning Ordinance. We have not really had a time to try it, but I agree with you. I was working with my Affordable Housing Advisory Committee on having the requirement, cutting the existing requirement in half. It was going to be eighteen percent (18%) and it was going to be infrastructure, land, and off-site infrastructure, which was again cutting it in half. This thing that if you look at the history of our housing, most of the affordable housing today that has been provided over the last forty (40) years has been, at least half, has been an inclusionary zoning requirement. Supply will not decrease the price of housing below the cost.

Council Chair Rapozo: Councilmember Chock. Okay, go ahead.

Councilmember Kaneshiro: I think my point is most of the housing that has been doing affordable housing, has all been County initiated. I have not seen much housing coming from developers at all.

Council Chair Rapozo: Right.

Councilmember Kaneshiro: Around the island.

Councilmember Yukimura: Kolopua.

Councilmember Kaneshiro: The burden right now, has been on County to develop housing.

Council Chair Rapozo: Right.

Councilmember Kaneshiro: Which is a tough burden to have.

Councilmember Yukimura: I am sorry, but Kolopua is an Inclusionary Housing Ordinance. Koa'e is an Inclusionary Zoning Ordinance. 'Ele'ele Nani was Inclusionary...

Council Chair Rapozo: That is...

Councilmember Yukimura: Waipouli and by the industrial park, they were all inclusionary, and most of Puhi, thanks to Grove Farm, was inclusionary zoning.

Council Chair Rapozo: Councilmember Yukimura...

Councilmember Yukimura: And so was D.R. Horton...

Council Chair Rapozo: I am going to start running the clock because it is not fair to just utilize the response and...

Councilmember Yukimura: But did you hear what I just said?

Council Chair Rapozo: We heard, Councilmember Yukimura.

Councilmember Yukimura: Okay.

Councilmember Kaneshiro: Yes, I am talking recent projects.

Council Chair Rapozo: I understood you. She did not.

Councilmember Yukimura: I am talking recent projects, too.

Council Chair Rapozo: No, you are not. You are talking about 'Ele'ele Nani and Puhi. That was before I was born.

Councilmember Yukimura: Kolopua and Koa'e.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: I think the question is similar, but let me take it a step further in understanding the approach to permanent affordability. Are you saying that in order to address Councilmember Kaneshiro's question about encouraging development, that in addition to the measure that you are introducing, that there should be a change in the inclusionary zone percentage?

Councilmember Yukimura: Yes, indeed, and my Committee was working on that.

Councilmember Chock: Do we have any evidence that formula will indeed work for what our needs are in addressing the housing issue?

Councilmember Yukimura: Yes. Koa'e is an example of that, because—
Koa'e.

Councilmember Brun: She said your microphone.

Councilmember Yukimura: I am sorry. But is it Koa'e? Am I pronouncing
it correctly?

Council Chair Rapozo: Koa'e. I think we all know what you are
talking about.

Councilmember Yukimura: Koa'e.

Council Chair Rapozo: This is the issue. We are at 12:30 p.m. and we
are at lunch break.

Councilmember Kagawa: Let us go to lunch.

Council Chair Rapozo: I am going to ask you folks right now...

Councilmember Yukimura: Well, maybe...

Council Chair Rapozo: Hang on. Councilmember Yukimura, hold on.
If we can wrap up the main part of the agenda, which is only three (3) more items,
before 1:00 p.m., the staff has agreed to work to 1:00 p.m. or take a lunch break, come
back, and deal with the Executive Sessions. But I need your commitment because if
we are going to go, we are going to end at 1:00 p.m. If we do not finish, we defer. I
am not going to play that game. 1:00, is that agreed?

Councilmember Kagawa: Yes.

Councilmember Yukimura: Well, I do not agree to deferring.

Council Chair Rapozo: Then, we better agree to get done by 1:00 p.m.,
okay.

Councilmember Yukimura: Well, I agree that we get done by 1:00 p.m.
and when we come back after lunch, we finish up the agenda.

Council Chair Rapozo: No. I think you misunderstood. I want to
finish up the regular part of the agenda, if not, we are going to take a lunch break. If
we cannot commit to finishing up until the Executive Sessions, then we will take a
lunch break. If we can commit to being done by 1:00 p.m., then we will finish up the
main agenda and come back for the Executive Sessions. Councilmember Kawakami.

Councilmember Kawakami: Are we in discussion?

Council Chair Rapozo: Well, I am just trying to get a feel of what you folks want to do because if we do not think we are going to finish by 1:00 p.m., then we are going to take a lunch break right now.

Councilmember Yukimura: Council Chair Rapozo, if we are going to take a lunch break now, I think if there is anyone who wants to testify on this and cannot come back after lunch, we should allow them to and use that time to go to 1:00 p.m., if necessary?

Council Chair Rapozo: We are going to go to 1:00 p.m.

Councilmember Chock: Council Chair Rapozo, I had the floor.

Council Chair Rapozo: Go ahead, you had the floor.

Councilmember Chock: I just wanted to say and I do not need the answer to that question, but I am looking for evidence. This is first reading and that is why I am saying let us get the questions on the table if what we are trying to do is get to lunch by 1:00 p.m. I do not need the actual answer, but as it goes to Committee, I would like to entertain those questions that I have.

Councilmember Yukimura: And the question you wanted answered was whether there is evidence of how affordable housing supply has been provided?

Councilmember Chock: No. My question was about what the right formula is if what we are looking at is a combination of introducing permanent affordability aspects into our process as well as revising the inclusionary zoning percentage. I want to know what that right balance is if we are to expect that we want developers to participate.

Councilmember Yukimura: Well, okay.

Councilmember Chock: That is my question and that is what I would like to get on the table for the next time.

Councilmember Yukimura: Okay.

Councilmember Chock: Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. I did hear that this provision applies to affordable housing projects that are paid for by taxpayer dollars, but I am trying to search within the Bill that points that out and maybe you can help me. I tried looking for it. It is probably like anything else, right under my nose, but I am looking where we make the statement this applies to affordable housing projects that are paid for by taxpayer dollars. I am looking for the specific provision, just for my own personal edification...

Councilmember Yukimura: That is a good question.

Councilmember Kawakami: ...because that is a big, broad statement and I do not see it. But I can tell you that this is well-intended and it sounds good, but it has also been identified by University of Hawai'i Economic Research Organization (UHERO), that inclusionary zoning has failed in other jurisdictions. It reduces the number of affordable housing units and raises prices, and reduces the quantity of market-priced housing units. This is inclusionary zoning and Ordinance No. 860 has been in existence for ten (10) years. Councilmember Kaneshiro alluded that very few units have been built. Zero (0) units have been built since this Ordinance has been enacted because science and research shows that exactions do not necessarily work. When you require someone to build below market value instead of granting them incentivizes such as density bonuses, we are not getting the affordable housing that we need, and that stringent laws are causing developers to walk away. The very people that are building affordable housing are walking away because our current Ordinance is too strict and we are making it stricter. So it is well-intended and it sounds great and we want that, but the fact of the matter is that this does not work. I am loving to see this thing go through the process because the legislative process is an educational process. We have experts saying that instead of exactions, we should be considering bonuses. So instead telling a developer that we want three (3) units of your ten (10) unit subdivision to be below market value, we should be saying, "We will give you a density bonus of thirteen (13) so that you can spread that cost out and make it more affordable." These are things that are studied and these are the results of those studies. That is why I said it is with great intent that we do this, but let us take into account the reality of it. Our housing issue is a financing issue and I am not sure if it makes it harder for projects to get financed, but surely looks like it at this level. While I would love to see this and the discussion to continue, I have severe reservations that this is the answer to it. The other thing is this may be all moot because Supreme Court to Supreme Court at different State levels are saying that inclusionary zoning above fifteen to twenty percent (15-20%) is unconstitutional, and ours is at thirty percent (30%) and they cannot find the rationale nexus on that what thirty percent (30%) constitutes. So, Supreme Court to Supreme Court are starting to rule that inclusionary zoning above fifteen to twenty percent (15-20%) is unconstitutional. I am not sure if this is the answer, but I applaud the effort to get more affordable housing. But I am not sure this is a solution. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. I did sign onto this to get it on the table to have the discussion. You bring up a very good point about the public moneys because the definition of "long-term affordable" does mention "any affordable housing developed with public moneys," but it also includes "or required as County zoning or planning," so that may cause an issue. Kaipo Asing, many years ago said, "You folks be careful. When you start putting too many demands on a developer, they are not going to build." I think we are seeing that happen today, that because it is at thirty percent (30%), a lot of people cannot build. I do agree with the density bonus. I think that has to be an incentive, more than anything. But at the end of the day, I think if we are using taxpayers' money to fund an affordable housing project, then it should be perpetual. I am looking forward to a really good discussion. Councilmember Yukimura.

Councilmember Yukimura: This Bill does not do anything to the inclusionary zoning law. It does not change it. If you want to change it, I was working on a law that was going to drop the percentage from thirty percent (30%) and I had pretty much unanimous consent of the Committee, which had people like Tom Shigemoto, thirty percent (30%) to eighteen percent (18%). I think Tom wanted to drop it to sixteen percent (16%). That was the sticking point, but it was going to come down and furthermore, it was not going to require turnkey. It was going to be just land and off-site infrastructure as long as it was located close to where the development was, which was presumed to be a job center. As I reminded you, that Committee was disbanded by this Council. It was. It was a Resolution that disbanded the Committee that had been formed by resolution.

Council Chair Rapozo: Hold on, Councilmember Yukimura, because we are not going to get to 1:00 p.m. I can tell you right now. If we are going to keep going back to your Committee, which we went four (4) times already...

Councilmember Yukimura: But I am telling you that is what happened...

Council Chair Rapozo: I know.

Councilmember Yukimura: ...to the Bill that was trying to amend the Inclusionary Zoning Ordinance.

Council Chair Rapozo: Okay, we are going to take a lunch break because we will not get done with the rest of the items by 1:00 p.m. Let us come back at 1:30 p.m. Lunch break.

There being no objections, the meeting recessed at 12:42 p.m.

The meeting reconvened at 1:51 p.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, I think we have had some discussion and perhaps we should I hear from the public.

Council Chair Rapozo: We will. Are we done around this table as far as...

Councilmember Kaneshiro: I would not mind hearing from the Administration or if this went to the Office of the County Attorney.

Councilmember Yukimura: This was sent to the Office of the County Attorney, but it was sent simultaneously, so we have not received the report back. I hope that we will get it by the time of the public hearing.

Council Chair Rapozo: Okay. With that, I will suspend the rules. Is there anyone in the audience wishing to testify? Do we have any registered speakers?

Ms. Fountain-Tanigawa: Yes, we have one (1) registered speaker currently, Anne Punohu.

Council Chair Rapozo: Anne.

There being no objections, the rules were suspended to take public testimony.

Ms. Punohu: *Aloha*, Anne Punohu. I am a little confused. Is this the Communication that we are testifying on or is this the Bill?

Council Chair Rapozo: The Bill.

Ms. Punohu: Okay. Is this the last opportunity to testify on this?

Council Chair Rapozo: No. This is just the first reading. From here, it will go to public hearing and then it goes to the Committee, if it passes out of first reading.

Ms. Punohu: But the public hearing is not today? That will be at another time, right?

Council Chair Rapozo: Today?

Ms. Punohu: The public hearing is not today?

Council Chair Rapozo: No.

Ms. Punohu: Okay. I would like to give my testimony now. I thought I had this nailed down, but after Councilmember Kawakami's testimony and speaking to the County Attorney over the lunch break, I have been apprised of this Federal Judge's declaration. That seems like that is actually going to happen in the future. However, I agree with the premise, but I want to see rent control, not this. I do like the idea of saving these units and making them available for people. I think that is absolutely one hundred percent (100%) good. I think that maybe this needs to be worked on. I think that maybe just gutting it and trying again because now that this has been brought up by Councilmember Kawakami and the County Attorney, I think that you may be able to rework and rewrite this legislation possibly in such a way that would prevent any Federal fallout from a Federal Judge or any judgments from any Federal Court, and you may be able to reword or rewrite it in such a way that would prevent the County coming under liability or having the affordable percentage stopped or even lowering the percentage first and then coming back and doing this legislation after. To me, it does not matter when it was proposed. The idea is that things go in a proper order. So if it is more important to lower the percentage to so that we can somehow avoid any problems at the Federal Court level and then come back, redo this Bill, and make it a little different so that it will be more

palatable and workable. I think that in my humble opinion of just a layperson that this is a little over my head, but I am trying to understand it was a member of the community. To me, keeping affordable housing in perpetuity is a good thing, not a bad thing. However, when I am in this room, I learn a lot and because I have learned something I think you have, too, so I am thinking maybe perhaps taking these other steps may be a better idea. It does not mean we do not want to do it or I do not support it. It just means that we may need to go about it in a little bit more of a roundabout way or a different way and come at it in a little different angle, and have it be a little bit more solid so that it will work and will live through whatever may happen in the future on the Federal side. Thank you.

Council Chair Rapozo: Thank you. Before we go to the next speaker, I will ask Mauna Kea come up and share about this Federal declaration, which I am unaware of.

Mr. Trask: *Aloha*, for the record, Mauna Kea Trask, County Attorney. What Ms. Punohu mentioned was she asked me what Councilmember Kawakami was talking about, so I explained it to her briefly. Inclusionary zoning has been a program that has been used across the Country since about the late 1970s, early 1980s. I believe Virginia was the first one to do it and it is one (1) tool in which should be a very diverse portfolio of any County to get affordable housing. Currently, there is a distinction with affordable housing in that housing exactions done at the administrative-level, so at a department like the Planning Department or something like that, in order for them to be constitutional, they have to show a sufficient nexus and comply with what is called the "Nolan/Dolan standard," which you are familiar with, to say that whatever exaction you are taking is roughly proportional and related to the development. Up until presently, they have drawn in affordable housing situations that if it is an administrative program, you have to hit the Nolan/Dolan nexus test, whereas if it is in legislation, you do not. The most recent case was this case called California Building Industry Association v. City of San Jose, California. That went up to the California State and Federal Courts. It was upheld by the Ninth Circuit Court of Appeals because the City of San Jose had a study, and it provided that they could rationalize what they were doing. There was a rational basis for what they were doing. We do not have such study right now. In going up to the Supreme Court, the writ was denied, so the Supreme Court did not choose to hear it. But in the opinion of the Court authored by Justice Thomas, who was at this time, February 29, 2016, the last originalist on the Supreme Court or shortly thereafter whenever Scalia passed away. He wrote the following, "I continue to doubt that the existence of a taking should turn on the type of governmental entity responsible for the taking." He was citing the Parking Association of Georgia. "Until we decide this issue, property owners and local governments are left uncertain about what legal standard governs legislative ordinances and whether cities can legislatively impose exactions that would not pass muster if done administratively. These factors present compelling reasons to resolve this conflict at the earliest practical opportunity." He says, "Yet this case does not present an opportunity to resolve this conflict, largely because the city raised threshold questions about timeliness of the petition and that the petitioner disclaimed any reliance on the Nolan/Dolan test in the lower court proceedings." So what he said was "this really was not the vehicle to do it, but we are going to do it as soon as possible." Subsequent

to that opinion, Justice Gorsuch and Justice Kavanaugh have been appointed to the United States Supreme Court. If you follow the United State Supreme Court, it is pretty recognized right now, the Court has swung to that side of the spectrum. Everyone in this area both economists, planners, county attorneys, and everything are talking about what is happening next and everybody needs to go get that product to substantiate their affordable housing statutes. Now, I want to say for the record that I am not saying that our housing program is not legal right now. It is constitutional right now and we will defend it as such, and Councilmember and Committee Chair Brun has been working with the County Housing Agency on a study to analyze and see what the nexus is and what that work product is. That is the number one thing you need if this is challenged to go to Court and say, "This is rational. We have the product do this." That is always the first place to start when you are looking at things like this because if you look at the economics and the articles about housing, it is not a zero-sum game. One rich (1) house is not one (1) less poor house. One (1) more house is one (1) more house. When you look at these things, the whole affordable housing program throughout the nation since its inception, really has only developed about fifty thousand (50,000) units across the Country. When you do changes like this and instead of working with the market try to restrict the market or avoid the market, you may end up achieving that very thing you are trying to avoid, which is less houses. So trying to get perspective and hard economic data on this and policies, is a good thing to start with for policy makers. That is kind of what it is.

Council Chair Rapozo: My question was about the Federal declaration that Anne mentioned...

Mr. Trask: That is what she was...

Council Chair Rapozo: ...and what she was told.

Mr. Trask: That is what she was talking about.

Council Chair Rapozo: Was that an opinion?

Mr. Trask: She called it a declaration, but that is what I was talking to her about.

Council Chair Rapozo: Oh, okay. So, it is not a Federal declaration in the sense like a Supreme Court ruling? It is an opinion from one (1) of the Justices?

Mr. Trask: Well, it is an opinion regarding the petition for writ and the denial thereof.

Council Chair Rapozo: Right.

Mr. Trask: So it is kind of telegraphing. Like in boxing, he is dropping his shoulder and you are about to catch one in the face.

Council Chair Rapozo: Yes, but it was one (1) Justice, right?

Mr. Trask: One (1) of the majority...

Council Chair Rapozo: I was always told from your Office that an opinion is not the law.

Mr. Trask: No, an opinion...

Council Chair Rapozo: Just the fact that they...

Mr. Trask: A Supreme Court opinion is the law.

Council Chair Rapozo: Was it or was it not? I thought you said the Supreme Court did not hear it.

Mr. Trask: They denied the writ, yes. But in denying the writ, he explained that it is a difference without a distinction. So, everyone is taking this as an opportunity right now, to re-evaluate and try to support your existing ordinances because the challenge is coming. Just like they saw Janus. It was coming for years and it came, so you do not want to get caught flat-footed because it will come.

Council Chair Rapozo: As it pertains to our existing housing policy, the thirty percent (30%), should we repeal that?

Mr. Trask: I do not want to speak on that right now.

Council Chair Rapozo: Well, if you are saying that this would prevent us from moving forward on this, then I would assume that same rationale would be applied to the existing...

Mr. Trask: As far as my opinion, I will give you my opinion under confidential cover and then you can evaluate it at that time. I do not want to say it in public right now.

Council Chair Rapozo: Okay. Councilmember Yukimura.

Councilmember Yukimura: I think you just said that our Ordinance is legal right now. Did I hear that correctly?

Mr. Trask: I will maintain as such.

Councilmember Yukimura: Pardon me?

Mr. Trask: I will maintain it is.

Councilmember Yukimura: Yes, because it has not been challenged and it has not been invalidated in Court, it is legal.

Mr. Trask: Correct.

Councilmember Yukimura: But the case law around the Country is calling into question these laws and actually, the Supreme Court has not decided that a legislatively created exaction is illegal either. They have said that if it is administratively created, then it needs to show the nexus in order to be legal, right?

Mr. Trask: Correct.

Councilmember Yukimura: But it looks like the Court is moving toward also requiring that of a legislative body, but it is not clear because the latest case, which was the San Jose case, was a legislatively enacted sanction or exaction and because they had a study, it was upheld by the Ninth Circuit Court, and the Supreme Court did not take it.

Mr. Trask: And because those arguments were not made. So had the parties argued Nolan/Dolan at the lower level, the Supreme Court may have taken it up because they raised those issues.

Councilmember Yukimura: Right.

Mr. Trask: But like in any case, if you do not bring it up, you waive it. So it is not appropriate to raise it at the highest level if you did not bring it up at the lower.

Councilmember Yukimura: They are looking for good facts by which to make their law, right?

Mr. Trask: Correct.

Councilmember Yukimura: And so that case did not really suit them, but it still means that there is no clear law from the Supreme Court, but we are afraid that when the Supreme Court does find the case that it decides to take, that they might apply this nexus requirement and that is it is very good that we have having a study done to back up the law. I was working to make the law more acceptable by working with this Committee to drop the percentage as well as dropping the turnkey nature of the exaction and only requiring land and off-site infrastructure. I was trying to move it to a more workable law.

Mr. Trask: Also I want to be clear, it is not just the legal policy that should be driving this. Ultimately, it may live or die on the legal aspects it. But also, too, if you look, economists have big questions about the efficacy of affordable housing, what that does to the market, and whether it helps or inhibits. They largely concluded it inhibits. I am not an economist and I am looking at a diverse bunch of articles, but they are and depending on what they write, those will be shared.

Councilmember Yukimura: Also, we need to see whether their economics, as applied to Kaua'i, actually is applicable partly because if you look at history of affordable housing created over the last forty (40) years, you will see that our inclusionary requirements have played a big role in providing some of the inventory.

Puhi is an example and that was—I say this with gratefulness, that was Grove Farm’s requirement, which was put on by the Land Use Commission, not by the County. Also, ‘Ele‘ele Nani was A&B’s requirement, Koa‘e was Kukui‘ula’s requirement, Kolopua was Princeville’s requirement, and Kilauea Estates was also a housing requirement. If you look at all of those housing that was provided, you see that exactions were really a big part, I mean, think of the families who would not have affordable housing now.

Mr. Trask: I do not want to argue the point. I think it is a matter of perspective. When you are nine thousand (9,000) units short and you keep on getting shorter every year. It is like my kids. If they are hungry and I tell them, “Well, I fed you this morning,” yes, they got to eat in the morning, but they are still hungry at night.

Councilmember Yukimura: Well, you still is have to show that it was this ordinance, which stymied the growth of housing, and I do not think we are only ten (10) years out of the recession. I think people will agree across the Country that we are only coming out of the recession. If our housing was provided both by inclusionary zoning, by County housing, which was enabled by the forty-one million dollars (\$41,000,000) of post-Hurricane ‘Iniki moneys that we got, then taking away one of the sources of affordable housing at a time where we have to accelerate our affordable housing efforts does not make sense. Certainly allowing housing, however created, whether it was tax money or with exactions, making them last for only ten (10) or thirty (30) years is going to really...

Council Chair Rapozo: Councilmember Yukimura, do you have a question for him because you are talking policy? I do not want to keep him up there. Do you have any legal questions?

Councilmember Yukimura: Well, he responded with policy that is why. I do not think we disagree, except to the point that it was an inclusionary zoning ordinance that stopped development on Kaua‘i.

Mr. Trask: One (1) of the things I will just provide is there is an article by Robert C. Ellickson of Yale Law School, January 1, 1981, talking about the irony of inclusionary zoning and how the economics speak contrary to what you are saying. I will let you decide. It is this body’s decision to make. I will provide you this.

Council Chair Rapozo: I am more interested in the legal and not the economics or economist things.

Councilmember Yukimura: But please send that to me.

Council Chair Rapozo: What?

Councilmember Yukimura: I would like to have it.

Council Chair Rapozo: Well, that was 1991.

Mr. Trask: 1981.

Council Chair Rapozo: 1981, that is even longer.

Councilmember Yukimura: Yes.

Council Chair Rapozo: I think we can all agree that times have sure changed since 1981. My question for you, Mauna Kea, how long is it going to be before you are able to do an analysis of this Bill and the legality based on what you said, based on what you talked about the Supreme Court's declaration or whatever you want to call it? How long will it take you to come up with analysis of the language of this draft? I know in here it talks about "for any affordable housing developer with public money or required by County zoning or planning actions will always be affordable." If we limited this language to just project that are created by County money, in other words, not a developer so there is no taking, there is no exaction, and these are County projects, does that change the legality or the problems that you talked about?

Mr. Trask: Yes. If you were to do that, you would avoid a lot of takings issues and the nexus.

Council Chair Rapozo: Right, there would be no takings issue.

Mr. Trask: Yes. The County acting as developer would be entirely different, correct.

Council Chair Rapozo: Right.

Mr. Trask: I aim to get my product to you as soon as I possibly can and hopefully by next week. If we can make today go quick, that is more time I can spend over there in my office.

Council Chair Rapozo: Okay. Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. The current Housing Task Force has been put on hold because of this Federal discussion. The question is two-part. One, do we have any inclination as to when there will be a decision and maybe you do not know.

Mr. Trask: I do.

Councilmember Chock: I am just asking because we can wait forever for a decision like this to occur and still, like you said, we are nine thousand (9,000) short. So we need to, on the local-level, even consider what we are working with at least in terms of what the direction is going. It sounds like we have an indication of where that direction is going. On top of that, you spoke of the study that Councilmember Brun is doing. That would give us a great indication as well as to the direction we should go. Do we have any timelines towards these questions?

Mr. Trask: I did sign off to approve as to form and legality of a contract amendment, I think, extending the time because looking at market forces on Kaua'i as Councilmember Yukimura said, is a little different. I want to make clear that it is unknown what study is going to say. Hopefully, the study comes back and says, "It is all good, it substantiates everything, you are okay, proceed" and we can run with that, but we need that product. I do believe, off recollection, you are going to get it off within the first or second quarter of 2019. I believe that is when it is good, but I encourage you to check with Housing to make sure.

Council Chair Rapozo: Councilmember...

Councilmember Chock: I am sorry.

Council Chair Rapozo: No, go ahead.

Councilmember Chock: In terms of the Federal discussion, it sounded like you had some direction.

Mr. Trask: They have not set the Supreme Court docket yet for this coming year, but you never know when with them. Like Councilmember Yukimura said, once they see the right vehicle, if once they have taken inclusionary zoning case, it is going to be concerning.

Councilmember Chock: Okay.

Council Chair Rapozo: There is nothing pending in front of the Supreme Court, right, until someone files or challenges?

Mr. Trask: They are out of session. But there are eleven (11) Federal Circuit Court districts, so it could come out of any one of them at any time, and I do not...

Council Chair Rapozo: No, but as far as you know of today, there are no pending challenges.

Mr. Trask: They are not in session right now.

Council Chair Rapozo: Yes, but there is no case right now, right?

Mr. Trask: I do not think they are open for business right now. But when they do open, we will see what the docket is and then we will see then.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Just for everyone's edification, the provision that refers to housing that the County builds with taxpayers moneys whether it is Federal, State, or Counties moneys, is in Section 5, page 3 because this is the Housing Ordinance and the Housing Ordinance lays out the requirements for exactions. But

at the very end it says that this will not apply, Ordinance No. 860 does not apply to County housing, but we put in that it does apply with respect to permanent affordability.

Mr. Trask: Correct. I just want to correct the record. I am sorry, the Court opens on October 1st of every year, so they have just started session. They are in right now.

Councilmember Yukimura: So that is the provision that applies to County housing that is built with taxpayer money.

Council Chair Rapozo: But Section 2 on page 1, that is where you would have that "or required by County zoning or planning actions will always be affordable," that really triggers the taking issue that we really have to consider. Is it worth the battle and the potential legal challenges because you are now requiring it? Then, it is going to come down to what has been said earlier, that I do not know how a developer will be able to afford a development if all of the units are permanently affordable. They will not have an opportunity to—they would have to subsidize the development, basically. I understand that argument as well. My bigger concern right now, is the legal issue.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Mauna Kea, have you looked at this Bill yet?

Mr. Trask: I am currently reviewing it and trying to get perspective on it.

Councilmember Brun: So you should...

Mr. Trask: I got it last week Friday.

Councilmember Brun: So you should get something. What do you need? Two (2) weeks or a month?

Mr. Trask: I am going to get it as soon as possible. I understand the request was by the 14th. I am going to endeavor to get it to before you that as soon as I can. We do not have Council the next two (2) weeks, so that will help me dedicate some time to it.

Councilmember Brun: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: This law is presumed legal unless overturned or challenged, Mauna Kea. I am guessing and I could be wrong and I guess you would look at this as you develop your opinion for us, but this policy of long-term affordability, I do not know if that is the main legal question. I think it is the percentage requirement that may be the legal question and so I am wondering, if we

let the thirty percent (30%) stand with the idea that we will possibly amend it when the study is done, then could we be put in this affordability requirement because that is what we want to happen to those units that are put into the affordability inventory? If you find in your legal research that is a problem, then we would change it at that time or if the study—I presume the study will address the long-term affordability issue as well if you say it is, in fact, in question legally.

Mr. Trask: Yes. As you said and as Council Chair Rapozo has said, a lot of this is policy. I am very careful to identify what is legal and what is policy because you are the policymakers. Although I am going to provide you as much information as I can, if it is not a legal thing and even if it sometimes, you are going to make your call. Just under Rule 2.1 of our Rules of Professional Conduct, “In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation.” Because we are dealing with affordable housing and because economic factors are so important, I am going to give you that information so you can have that for your own use, and it is policy and that is your call to make. I am going to inform you as such, but I do not want to overextend my power or take away yours. That is not how I play. That is all.

Councilmember Yukimura: Okay. Thank you.

Mr. Trask: You are welcome.

Council Chair Rapozo: Are there any other questions for Mauna Kea? If not, thank you very much. Anyone else? Are there any other members of the public who would like to testify?

BRUCE HART: For the record, Bruce Hart. There are just a lot of unanswered questions and they are not questions that can be answered now. It is obvious some of them are going to have to wait to be answered. I cannot make a decision, but I will go out saying this, that I noticed that this Bill was introduced by Council Chair Rapozo and Councilmember Yukimura and I am really pleased to see them working together. Thank you.

GREG CROWE: Good afternoon again, everyone. Greg Crowe. After all that has proceeded discussions, I think this may be somewhat moot to what I prepared earlier, but I think it has some general applicability as well. I would like to say in general, I applaud the efforts to start doing some real substantial steps to solve this crushing problem that we have of affordable housing and the lack of it here. One (1) of the basic problems we have that we all know is if the affordable units keep on going back to market, it is like trying to fill a leaking bucket. We are never going to make any real progress, so we have to solve that problem in one way or another and there are quite a number of ways to try to do that. One way or another, we need to create and keep the affordable units to fill that bucket and keep it filled. To put my comments in a larger context, there is a quote from Mike Dahilig when he was testifying before this Council during the General Plan update hearings. When Mike

responded to a question about how we got into this lack of severe lack of affordable housing problem that we find ourselves in, Mike replied, "It is a creeping disaster that has not gotten the attention that it deserves because it crept up on us." I think with all know how it snuck up on us and did that. Well, thank you for starting to fix this problem and getting some effective action going, that is deserves. Of course we all know that it has grown to not just a problem, but it is really severe, disastrous crisis affecting pretty much everyone on this island in one way or another. We need to really change the mindset and the approach that has been part of creating the disaster. As often said, you will not find a solution to the problem from the same way that created the problem. We have to change something and probably something dramatic. From the numbers in the General Plan, we need to create at least five thousand (5,000) homes over the next five (5) years to really solve this problem. The General Plan numbers had over one thousand five hundred (1,500) homes, another five hundred (500) per year, it has been three (3) years since those numbers, and so we are down three thousand (3,000) homes probably right now. If we are going to solve the problem, we have to keep up with the growing need every year. Five thousand (5,000) homes, but we are not really talking about the solution. That is the context we have to think about here. Also, I want to address something that is in this draft Bill and in your general housing policy here that I think is part of the issue that is affecting all of us every day, and that is the affordable housing income level limits that we go from. We have the United States Department of Housing and Urban Development (HUD) levels, and I would like to ask you to include in those tables what is called the "gap" levels. The reason that is important is that is for one hundred forty percent (140%) and above the AMI. That may sound like a lot to some people, but if you take the average teacher's salary throughout the State and on Kaua'i, if you have one (1) teacher with a spouse that is earning another income or two (2) teachers, they actually fall out of the affordable housing limits and they fall into the gap area. Is that what we really want to be doing, sending that message to all of our teachers and other essential service employees that we do not have a place for them to live? There is an article...my time.

Council Chair Rapozo: I have to stop you. That was your first three (3) minutes. Anne, did you want another three (3) minutes? Go ahead, Greg.

Mr. Crowe: Here is just one (1) of many articles that has been in the paper on this. This is one back from March of this year. This is in Hawai'i News Now. There was another paper in the *Honolulu Star Advertiser*. It was a front page article that was very long, basically the same thing. I will read just a couple of quick lines from this. "Hawai'i teachers are paid dead last in the Nation when cost of living is taken into account." Again, the average salary in Hawai'i for teachers is fifty-seven thousand dollars (\$57,000), two (2) of them puts them out of the affordable limit and into that gap. Here is real issue that we are dealing with, and again, teachers are the example, but it applies to all of our public service employees and our skilled employees. This applies to nurses and on and on through the list. "If there are not enough qualified teachers, instruction suffers, achievement suffers, and the pipeline to our workforce suffers." There are all sorts of charts and graphs for this sort of thing, but I would like to submit that in looking at this, please, whatever the solution is and whatever we come of it to keep it legal, we have to come up with some way to include those people in the gap level. It looks like I have another minute here,

so I will go on. I also have information from the Department of Education (DOE) of what teachers are making. Even with that again, their critical problem is trying to address the teachers are leaving. Fifty-five percent (55%) of new-start teachers are gone within five (5) years. One (1) of the major reasons is they cannot afford to live here. They are going elsewhere for less pay, but a lower cost of living so they are better off as teachers. One of the national teacher organization said what they call the "teacher comfort index," Kaua'i and Hawai'i is at the bottom of all fifty (50) States. We have a severe problem. We need to do something extraordinary to fix it. On the discussion we just had, I also benefited from some guidance from our County Attorney here when he was talking to Councilmember Brun's Committee. I went and read that law review article that he referred to and a couple of others on that same point. One (1) of the keys that they point to said that "instead of looking at exactions that may be problematic, look at incentives and privileges in thinking of the public good, which is the essence of all of zoning and building codes protecting the public good." If we focus on that, then we have a way that we will be upheld and already has been upheld, according to this law review article. I am not a lawyer, so listen to the County Attorney. "Encourage that public good, the old (inaudible) inclusionary exactions do not work well and may become illegal, but fully inclusionary zoning is likely to be supported and even mandated by the Federal government if we do not figure out a way to do it first here in a way that we would really like it to happen on Kaua'i." Thank you for considering this, and God bless you on your mission.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Greg, beginning teacher salaries would qualify, would they not?

Mr. Crowe: Very beginning teachers looks like they would qualify. Again, unless you have two (2) together.

Councilmember Yukimura: Well, you said fifty-seven thousand dollars (\$57,000) is the average.

Mr. Crowe: Yes.

Councilmember Yukimura: So if it was one (1), they would fit in eighty-five thousand dollars (\$85,000). If it was two (2) teachers, well, I do not know what the lowest salary is. Anyway, they would likely fit in ninety-seven thousand dollars (\$97,000).

Mr. Crowe: Though we take the average salary because of course we do not want to have teachers to start and then leave because they cannot afford their housing anymore.

Councilmember Yukimura: Well, once you get into it, they are in there and then their salaries will increase. Okay.

Mr. Crowe: If they get to keep it and does not go off affordability, et cetera.

Councilmember Yukimura: We cannot even meet the need of one hundred forty percent (140%) median income and lower. I am hoping that supply—I do believe there is some...we have a, what do you call it? An inelastic supply-demand curve?

Mr. Crowe: Yes.

Councilmember Yukimura: I do believe, that is why I voted for additional rental units (ARUs) and R-40s, but they will impact most of all of the one hundred twenty percent (120%) to one hundred forty percentage (140%) group. That is where supply could have an impact. I do not think supply will get you below cost.

Council Chair Rapozo: Question, please. You will have an opportunity to discuss your theories, but are there any clarifying questions for the testifier? If not, we will bring up Anne for her a second time.

Mr. Crowe: Thank you for your attention and great efforts.

Council Chair Rapozo: Thank you.

Ms. Punohu: *Aloha*, Anne Punohu. Sorry Councilmember Kawakami and Mauna Kea, wherever you are. I guess I kind of opened up a can of worms, but I just want to clarify, I like the intent of this Bill. I like what it wants to do and I am in favor of that, but like I said, there is this whole issue here. I do not care who proposes anything, but from my standpoint after listening to everything now, if you take out the other section and just leave the County part, I think that would be a good thing. We could do that. I also think that looking again at lowering this percentage, if that is going to be a sticking point, let us do that. But the bottom-line what I see today is that it needs some more work, or it needs at least Councilmember Brun's study, which you are working on that. I just think that if we have our ducks very carefully in a row, we will not have problems later on and this will actually do the good that it is supposed to do, which I want to see it work. But I think if we do not take a few of these precautions first, then it may come to slap us in the face later, then the affordable housing may not be available to any of us, and that would be a very sad thing. I just think that these two (2) simple steps would help; wait for Councilmember Brun's analysis, the County Attorney's analysis, his study; take out the other part, leave in the County, and then come back to the table and lower that percentage. That is what we need to do, and then I think it could work. *Aloha*.

Council Chair Rapozo: Thank you. Anyone else? If not, I will call the meeting back to order and just...

Mr. Crowe: Can I just clarify one (1) thing? Just real quick. I just realized there was a term that Councilmember Yukimura used that is common in industry, but probably does not make much sense to people, which is the inelastic market. Simply what that means is that supply and demand does not work in an elastic market, and that is what we have. In fact, we have the most inelastic

market on Kaua'i in the whole Country. That is an important point in all of these discussions, just providing more supply does not solve the problem. Thank you.

Council Chair Rapozo: Thank you. With that, I will call the meeting back to order.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Just for Anne, unfortunately, the Sunshine Law does not allow for us to discuss anything unless it is on the floor, and that is what the whole intent of this was getting it introduced so we can get it in the Committee and do the work. That is the whole purpose of this. We are just not able to have a Council-wide discussion any other way. So that what it is. I see that the takings issue might be relevant in this discussion in the way it is written, so that is something that I need to address. But for right now, this is really to get it on the floor so we can have the discussion in a Committee format. Is there any other discussion? Councilmember Kaneshiro.

Councilmember Kaneshiro: I have a question. Councilmember Yukimura, do you know of any cities or counties that have permanent housing or have a similar permanent affordable housing law? I have been trying to find information on the pros and cons of permanent housing. Long-term, I do not know. Short-term, I do not know how the financing works, if a lender is willing to finance them like the same as a regular house where it is twenty percent (20%) down and then whatever the rate is. I really have not been able to find...

Councilmember Yukimura: What do you mean a lender?

Councilmember Kaneshiro: I am just saying, are there other places in the Country that people are doing permanent affordable housing? Do you have examples of it?

Councilmember Yukimura: I think there are and I do not know any specifics, but I do know that talking to Mr. Hirai, that is the policy that HHFDC—oh, and I think the City and County has...I think wherever State and County moneys are used, they require permanent affordability. I think Maui has that, too.

Councilmember Kaneshiro: Is it all rental units or are they doing single-family houses and trying to keep it permanent...

Councilmember Yukimura: Well, community land trusts would give you the mechanism by which to get permanent affordability on single-family homes, and leaseholds with a ninety-nine (99) year leasehold is a way to do it. We have been doing that for at least ten (10) years now, I think. They are mechanisms to achieve permanent affordability and they are good ways because that is leaseholds over rentals, whether it is single-family or multi-family, because people get their equity back, but not the speculative increase that comes with the market.

Councilmember Kaneshiro: I would be interested to hear from Housing on how all of the different programs are working. I have heard things on the leaseholds from people. I do not know how well it is working or not.

Councilmember Yukimura: We had a recent discussion about leaseholds and I think all of us were impressed with how it has been working because people can stay there their life, basically. I think they can even pass it to another income qualified next generation, but if they sell, then have to sell it back to the County, and the County holds the fee to the land. I understand that there are some issues with financing in speaking to Milo Spindt and Mr. Hirai, that the financing market is a little harder. But Mr. Hirai said they just had a representative from HHFDC go to a national conference where he said it is really opening up, so I think the financing mechanisms are going to start to change, too.

Council Chair Rapozo: Well, this Council has one (1) more Committee Meeting and two (2) more Council Meetings, and then it is done. What is the pleasure of this body? Right now, the motion is to send it to public hearing on November 14th, which is a Council Meeting, then it would show up in the Committee Meeting on the 21st, and then one (1) last Council Meeting after that on the 28th.

Councilmember Yukimura: Council Chair Rapozo, I would hope that we can at least hear from the public and hear from the County Attorney, and if necessary, we can amend it to keep this long-term affordability requirement and have it apply to County publicly financed housing. At least we could do that. We have the vehicle here and we have all the freedom to amend as we see fit. I do not think we have all of the information, either from the public or from the County Attorney. I hope we can at least have it proceed through first reading and to a public hearing.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Surely, I support moving it through just so we can hear from the Housing Agency. I am interested to hear what their position is. I will bring up some quotes from that UHERO report. It says, "Eliminating inclusionary zoning and easing development regulations will result in more housing units at lower housing prices." This is what it comes down to. I know it is hard for the public to fathom that we need to work with developers because developers and that name, in and of itself, has a stigma attached to it. But when you ask the question, "Who is the one developing affordable housing," it is developers and large landowners. We need to work with them to collaborate to get the product that we want, and that is what they are saying. They are saying that inclusionary zoning sounds great. From a political standpoint, it sounds great when we say, "We are going make developers develop affordable housing. We are going to make landowners develop affordable housing." This sounds great and it is what people want to hear, but it is not working. We need to take a look at flipping the system and providing incentives. Right now, we are requiring thirty percent (30%) of a subdivision with ten (10) to twenty-five (25) units. They are required to provide thirty percent (30%) of affordable housing. We have not seen thirty percent (30%) of the affordable housing. We have seen zero (0) because we are seeing subdivisions coming in with nine (9) units just to get away from that. So you provide incentives and these private

enterprises will find ways to maximize those incentives. When we are talking about should we perhaps instead of taking thirty percent (30%), providing a thirty percent (30%) bonus to say, "Hey, if you want to do a ten (10) unit subdivision, if you want to comply with these standards and at this price point, we will give you a density bonus three (3) extra units so you can leverage off that cost over the cost of the overall development." This is what the experts are saying. When are we going to decide to listen and try to see where we can meet each other halfway? The public is immediately going to say that government is giving a handout to developers, and it is not true. We have to be able to see beyond that type of rhetoric and do what is right for the right reasons. I cannot wait for the study that Councilmember Brun has commissioned to come back with at least that nexus to tell us, "Hey, this is what is going to work, this is the nexus and the rationale," and then we can move forward from that. I think that is going to be a great foundation to see what it is that we need to do to actually bring these units to fruition. Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I will be supporting this on first reading. I think the conversation is such an important conversation that we need to keep the light on it and get as many of the questions answered as possible. I feel like we are sort of left without direction based on some of what is occurring at the Federal-level. But I think, for me, it is about studying. I want to look at the UH study and see some of the claims about how permanent affordability does not work for us. But really, we have to ask the question, what will work? I think some of what we are talking about, which really comes down to how developers can pencil this out so they can actually move forward on supporting development, but also get what we want in terms of keeping our housing affordable. It is really important. It brings to my mind the importance of looking at density entitlements and rezoning needs because we have to be able to make this work for everyone and it is going to be a give and take to find that balance. I appreciate the opportunity to hear from the Administration and for the discussion amongst the Council. Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. Just one (1) last thing I wanted to add. Yes, Supreme Courts are looking at this as a taking and what the rationale nexus is. But whether this gets challenged or not right now, here, today, it is insignificant because no one is coming to build. No one has come to say that, "Hey, we are going build a ten (10) unit subdivision so we can participate in this Ordinance." So whether it is legal or not, no one has been coming. No one has been knocking down the door to build affordable housing. Thank you, Council Chair Rapozo.

(Councilmember Brun was noted as not present.)

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: That is not true. Coco Palms has come forward and the two (2) hotels in Waipouli are coming forward or have come forward. This inclusionary zoning has been applied to the Coco Palms application. If you recall in the last session on Coco Palms, they have purchased, which I love, it is right across from the hotel. They purchased the lot by which they are going to implement their housing. Again, we are getting one hundred thirty-four (134) units at Koa'e out of inclusionary zoning. So whatever the UHERO study says, if you look at history of affordable housing on Kaua'i, you have to see that inclusionary zoning worked, and to the extent that it does not work is when those units expire in affordability. It sounds like there is advocacy for throwing out inclusionary zoning, it may be that it needs to be downsized to make it workable. In fact, I think the Kaua'i Lagoons requirement was about somewhere between ten percent (10%) fifteen percent (15%). Then, when you put in the requirement of just land and off-site infrastructure, which guarantees permanent affordability because the land comes to the County and the County then owns the land, you are cutting their requirements even further. It is a way of making the exaction more doable and also probably can more easily pass the legal standards.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Just to talk apples-to-apples, those other projects are not under our current Housing Ordinance. We are focused on Ordinance No. 860, not any existing ordinance, requirement, or negotiation, which all of these other developments that were talked about, are based upon. Let us face it, Coco Palms, that affordable housing is contingent on that project being successful. So, let us talk apples-to-apples. All of those other developments and affordable housing that came up were prior to the current Housing Ordinance. We are talking about our current Housing Ordinance. If you want to have a start with making things easier, then drop the percentage first before you try to make it stricter. That is my only point. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. For me, I think removing the section for exactions would be the best for this particular Bill. That would be a start. I think to enter that challenge—I went to a Board of Realtors conference, luncheon, or meeting and heard Mr. Brubaker, the economist, and he made it very clear that the inclusionary zoning is causing a problem with the development of affordable housing. I think that is kind of the general consensus of economists throughout the Country right now. I know some of the developments; Coco Palms and Koa'e, those were projects from a long time ago. We have not seen any new developers come up offering. In fact, I have spoken to Stanford Carr on O'ahu and said he that he is not coming to Kaua'i because of that. If we remove that element from the equation and focus on the projects that the County offers and builds, I think we would be okay. Again, I think the discussion will be good, but we have to get it on the table somehow. Is there any other discussion? The motion is to approve. Roll call.

The motion for passage of Proposed Draft Bill (No. 2725) on first reading, as amended, that it be ordered to print, that a public hearing thereon be scheduled for November 14, 2018, and referred to the Community Assistance

& Veterans Services Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmembers Brun and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Rapozo: Thank you. Next item, please.

BILLS FOR SECOND READING:

Bill No. 2719 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AGRICULTURE DISTRICTS (ZA-2014-4) (*County of Kauaʻi Planning Department, Applicant*): Councilmember Kaneshiro moved to receive Bill No. 2719 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive Bill No. 2719 for the record was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmembers Brun and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Rapozo: Motion carried. Next item, please.

Bill No. 2720 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SUNSHINE MARKETS: Councilmember Kawakami moved to approve Bill No. 2720, on second

and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, go ahead, Councilmember Yukimura.

Councilmember Yukimura: I just want to thank Councilmember Kawakami for introducing this Bill. I think it is timely and it is going to promote local products as well as local agriculture.

Council Chair Rapozo: Anyone else? Seeing none, also, Councilmember Kaneshiro, thank you very much for your co-sponsorship.

Councilmember Yukimura: Yes, thank you.

Council Chair Rapozo: Roll call.

The motion to approve Bill No. 2720, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmembers Brun and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Rapozo: Next item, please.

Bill No. 2722 – A BILL FOR AN ORDINANCE AUTHORIZING THE PROCUREMENT OF THE SERVICES OF A CONTRACT AUDITOR AND APPROVING A CONTRACT FOR A CONTRACT AUDITOR FROM APPROPRIATIONS OF A LATER FISCAL YEAR FOR MORE THAN ONE FISCAL YEAR: Councilmember Kaneshiro moved to approve Bill No. 2722, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion to approve Bill No. 2722, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmembers Brun and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Rapozo: Can you read us into Executive Session? I think we can get through at least the one (1) open item before the certificate at 3:00 p.m.

EXECUTIVE SESSION:

ES-969 Pursuant to Hawaiʻi Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kauaʻi County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in the litigation of Michael Sheehan Kocher, Sr., vs. Kauaʻi Police Department, et al., Civil No. 16-1-0108 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-970 Pursuant to Hawaiʻi Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kauaʻi County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-971 Pursuant to Hawaiʻi Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2), (4), and (8), the purpose of this Executive Session is to consider matters that require confidentiality under state law, to wit, the hiring of a County Auditor, including interviewing any candidates, and terms and conditions of employment. The further purpose of this Executive Session is to meet with the Council's legal counsel

on questions and issues relating to the Council's powers, duties, privileges, immunities, liabilities, claims, potential claims, as such powers, duties, privileges, immunities, liabilities, claims, and/or potential claims relate to the foregoing item, and to take such action as the Council deems appropriate.

ES-972 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, requests an Executive Session with the Council, to provide the Council with a briefing update and request for authority to settle the case of Michael Sheehan Kocher, Sr., et al. vs. Kaua'i Police Department, et al., Civil No. 16-1-0108 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Council Chair Rapozo: Is there any objection to deferring ES-970 to the next Council Meeting? That is just the...

Councilmember Chock: Pending and denied claims.

Council Chair Rapozo: The reason I am doing that is because of the time. We have the auditor's interviews at 3:30 p.m., so if we can get rid of all of the—if there is no objection, I would ask if someone can just make a motion to defer ES-970.

Councilmember Kawakami moved to defer ES-970 in open session, seconded by Councilmember Kaneshiro, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmembers Brun and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo: Then, I just need a motion to take the rest of the items.

Councilmember Kawakami moved to convene in Executive Session for ES-969, ES-971, and ES-972 seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Roll call.

The motion to convene in Executive Session for ES-969, ES-971, and ES-972 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmembers Brun and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion).

Council Chair Rapozo: With that, we will take recess from the agenda. We have to come back out before 3:00 p.m. What will do is we will go in, come out at 3:00 p.m. for the public item, the last item, and then Hō'ike can be released. If we need to go back in, then we can go back in. Recess until 3:00 p.m.

There being no objections, the meeting recessed at 2:49 p.m. to convene in Executive Session.

The meeting reconvened at 3:10 p.m., and proceeded as follows:

(Councilmembers Chock and Kagawa were noted as not present.)

Council Chair Rapozo: Can we have C 2018-227 read, please?

C 2018-227 Communication (10/03/2018) from the First Deputy County Attorney, requesting authorization to expend additional funds up to \$200,000.00 from the Claims and Judgments account in the litigation of Michael Sheehan Kocher, Sr., et al. vs. Kaula'i Police Department, et al., Civil No. 16-1-0108 (Fifth Circuit Court), and related matters: Councilmember Yukimura moved to approve C 2018-227, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you very much. Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

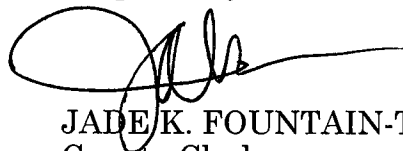
The motion to approve C 2018-227 was then put, and unanimously carried *(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaula'i, Councilmembers Chock and Kagawa were noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Council Chair Rapozo: Motion carried. With that, there is no further business on the agenda. This meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 3:11 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

